

SOCIAL SECURITY FINANCING
AMENDMENTS OF 1977

REPORT
OF THE
COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

TOGETHER WITH
INDIVIDUAL VIEWS, DISSENTING VIEWS, MINORITY
VIEWS, AND ADDITIONAL MINORITY VIEWS

TO ACCOMPANY

H.R. 9346

(Including cost estimate of the Congressional Budget Office)



OCTOBER 12, 1977.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1977

CONTENTS

	Page
I. Principal purposes and scope of the bill.....	1
A. Financing.....	2
B. Benefit structure (decoupling).....	3
C. Coverage.....	3
D. Gender-based distinctions in treatment of spouses.....	4
E. Retirement test.....	4
F. Other provisions.....	4
G. Income and benefit effects of the bill.....	4
II. Summary of principal provisions of the bill.....	5
A. Financing.....	5
1. Increase in contribution and benefit base.....	6
2. Changes in OASDHI contribution rates.....	6
3. Changes in self-employed contribution rates for OASDI.....	6
4. Change in allocation to the disability insurance trust fund.....	6
5. Standby authority for loans to the OASDI trust funds from general revenues with repayment tax provision.....	6
B. Revised benefit structure.....	7
1. Wage-indexing of earnings.....	7
2. Base year for indexing.....	7
3. Computation period.....	7
4. Benefit formula.....	8
5. Maximum family benefit.....	8
6. Transition.....	8
7. Treatment of earnings after age 62 or disability.....	8
8. Increase in delayed retirement credit.....	8
9. Freeze the minimum benefit.....	8
10. Increase the special minimum benefit.....	9
C. Coverage.....	9
1. Federal civilian employees.....	9
2. State and local employees.....	9
3. Employees of nonprofit organizations.....	10
4. Quarter-of-coverage provision.....	10
5. Totalization.....	10
6. Exclusion of limited partnership income.....	11
7. Social security employer taxes on tips when deemed as wages for the Federal minimum wage.....	11
8. Clergymen.....	11
9. Other State and local changes.....	11
D. Equal treatment of men and women.....	12
1. Equal rights.....	12
a. Father's benefits.....	12
b. Benefits for divorced men.....	12
c. Remarriage of widowers before age 60.....	12
d. Transitional insured status benefits.....	12
e. Special age-72 payment amounts for certain uninsured individuals.....	12
f. Benefits of spouses of childhood disability or disabled worker beneficiaries.....	13
g. Benefit rights of illegitimate children.....	13
h. Waiver of civil service survivors' annuities.....	13
i. Crediting of self-employment income in community property States.....	13

III

II. Summary of principal provisions of the bill—Continued

D. Equal treatment of men and women—Continued

- | | |
|---|------------|
| 2. Elimination of marriage (or remarriage) as a bar to entitlement to dependents' or survivors' benefits, and as an event which terminates entitlement to, or reduces, such benefits..... | Page
14 |
| 3. Reduced duration-of-marriage requirement for divorced spouses..... | 14 |
| 4. Study of proposals relating to dependency and sex discrimination..... | 14 |

E. Improvements in the earnings test..... 14

- | | |
|--|----|
| 1. Increase in annual exempt amount of earnings..... | 14 |
| 2. Elimination of the monthly earnings test..... | 15 |
| 3. Foreign work test..... | 15 |

F. Annual reporting..... 15

G. Other provisions..... 15

- | | |
|---|----|
| 1. Elimination of windfall cost-of-living increases..... | 15 |
| 2. Limitation on retroactive benefits..... | 16 |
| 3. Early payment of social security and SSI benefit checks in certain situations..... | 16 |

III. General discussion..... 16

A. Financing..... 16

- | | |
|---|----|
| 1. Increase in contribution and benefit base..... | 18 |
| 2. Changes in OASDHI tax rates..... | 19 |
| 3. Changes in self-employed tax rates for OASDI..... | 19 |
| 4. Change in allocation to the disability insurance trust fund..... | 20 |
| 5. Standby authority for loans to the OASDI trust funds from general revenues with repayment tax provision..... | 21 |

B. Revised benefit structure..... 22

- | | |
|--|----|
| 1. Wage-indexing of earnings..... | 24 |
| 2. Base year for indexing..... | 25 |
| 3. Computation period..... | 26 |
| 4. Benefit formula..... | 27 |
| 5. Maximum family benefit..... | 28 |
| 6. Transition..... | 28 |
| 7. Disability and death cases..... | 29 |
| 8. Treatment of earnings after age 62 or disability..... | 29 |
| 9. Increase in the delayed retirement credit..... | 30 |
| 10. Treatment of earnings before 1951..... | 30 |
| 11. Freeze the minimum benefit..... | 31 |
| 12. Increase the special minimum benefit..... | 32 |

C. Coverage..... 33

- | | |
|--|----|
| 1. Federal civilian employees..... | 34 |
| 2. State and local employees..... | 35 |
| 3. Employees of nonprofit organizations..... | 37 |
| 4. Quarter-of-coverage provision for Federal, State, and local service, and service for nonprofit organizations performed prior to effective date of coverage..... | 38 |
| 5. Totalization agreements..... | 39 |
| 6. Exclusion of limited partnership income..... | 40 |
| 7. Social security employer taxes on tips when deemed as wages for the Federal minimum wage..... | 41 |
| 8. Clergymen..... | 41 |
| 9. Other State and local changes..... | 42 |
| a. Validation of coverage for policemen and firemen in Illinois..... | 42 |
| b. Coverage of policemen and firemen in Mississippi..... | 42 |
| c. Coverage of State and local employees in New Jersey under the divided retirement system procedure..... | 43 |
| d. Coverage of employees under Wisconsin retirement system..... | 43 |

IV

III. General discussion—Continued	Page
D. Equal treatment of men and women.....	44
1. Equal rights.....	44
a. Father's benefits.....	44
b. Benefits for divorced men.....	45
c. Remarriage of widowers before age 60.....	45
d. Transitional insured status.....	45
e. Benefits at age 72 for certain uninsured in- dividuals.....	45
f. Benefits of spouses of childhood disability or disabled worker beneficiaries.....	46
g. Benefit rights of illegitimate children.....	46
h. Waiver of civil service survivors' annuities.....	47
i. Crediting of self-employment income in com- munity property States.....	47
2. Elimination of marriage or remarriage as a factor ter- minating or reducing benefits of certain beneficiaries.....	47
3. Duration-of-marriage requirement for divorced women (and men).....	48
4. Study of proposals to eliminate dependency and sex discrimination.....	49
E. Improvements in the earnings test.....	49
1. Annual exempt amount.....	49
2. Monthly earnings test.....	50
3. Foreign work test.....	50
F. Annual wage reporting.....	50
G. Other provisions.....	51
1. Limit cost-of-living increases for early retirees.....	51
2. Limitation of retroactive benefits.....	52
3. Early payment of social security and supplemental security income checks in certain situations.....	53
4. Relationship of the taxable earnings base under the railroad retirement program (tier II) and the Pension Benefit Guaranty Corporation (PBGC).....	53
IV. Actuarial cost estimates under the bill.....	54
V. Section-by-section analysis.....	66
VI. Other matters to be discussed under the Rules of the House.....	115
VII. Changes in existing law made by the bill as reported.....	249
VIII. Individual views of Hon. Sam M. Gibbons.....	292
IX. Dissenting views of Hon. Joseph Fisher.....	293
X. Minority views.....	296
XI. Additional minority views of Hon. William M. Ketchum.....	305

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

OCTOBER 12, 1977.—Ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means,
submitted the following

REPORT

together with

INDIVIDUAL VIEWS, DISSENTING VIEWS, MINORITY VIEWS, AND ADDITIONAL MINORITY VIEWS

[To accompany H.R. 9346]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause of the bill and inserts a new text which appears in italic type in the reported bill.

I. PRINCIPAL PURPOSES AND SCOPE OF THE BILL

Social security today is of major importance to just about every American family. Practically every American is either a beneficiary, a contributor building protection, or the dependent of a contributor. Today 93 percent of the people 65 and older are eligible for social security benefits. Ninety-five out of 100 young children and their mothers are protected by the life insurance features of social security, called survivors' insurance. Four out of five people in the age group 21 through 64 have protection under social security against loss of income due to severe disability. More than 33 million people, one out of

seven Americans, receive a social security benefit each month. About 107 million people will pay into the program this year.

Annual trust fund deficits beginning in 1975 have resulted in an erosion of public confidence in the social security system and the Federal Government's commitment to assure sound financing of social security. In order to restore public confidence and, more importantly, to assure that funds will be available to pay benefits as they fall due, your committee's bill would restore the financial soundness of the old-age, survivors, and disability insurance (OASDI) system by eliminating the actuarial deficit in the system through the first decade of the next century and reduce the deficit for the next seventy-five years from 8.2 percent of taxable payroll to 1.69 percent. More specifically, the bill would revise and stabilize the social security benefit structure, extend mandatory social security coverage, eliminate gender-based distinctions in the OASDI system and improve protection for a worker's spouse or surviving spouse, and increase the amount of earnings on older beneficiary age 65 or over may have and still receive some or all of his benefits.

The action taken to date by your committee is intended to deal with only the most pressing problems facing the social security system. The Subcommittee on Social Security has announced its intention to undertake phase II of consideration of social security legislation early in 1978 when it will take up possible amendments to the disability insurance program. Although your committee's bill does reallocate very substantial revenues into the Disability Insurance Trust Fund and will provide adequate financing into the next century, attention must still be focussed on why the costs of the program have risen so rapidly to a level far greater than anticipated. The possibility of not only reducing the cost of the program but also making it more susceptible to administrative control must be thoroughly explored. Following action on the disability insurance program, the Subcommittee will then turn its efforts to other aspects of the cash-benefits program which could be modified in a way that would not impair the long-range financial condition of the program.

A. FINANCING

The bill would restore the financial soundness of the system by providing—

A. Additional allocations of contribution income to the DI trust fund beginning in 1978 and a shift of a small portion of the existing scheduled tax increases from the hospital insurance (HI) part of the program to the cash benefit program (OASDI);

B. Phased increases in the contribution and benefit base in 1978, 1979, 1980, and 1981 to achieve a base level under which about 90 percent of total payroll in covered employment would be taxable (as compared with about 85 percent under present law); and

C. A schedule of social security tax rate increases in 1981, 1985, and 1990 sufficient to meet the cost of the program as amended by your committee's bill.

B. BENEFIT STRUCTURE (DECOUPLING)

The bill would also stabilize future replacement rates (benefits as a percentage of earnings) in relation to future wage levels, as would have occurred under the assumptions made at the time of the 1972 legislation providing for the automatic adjustment of the social security system to changes in the economy. The major elements of the revised benefit structure are:

1. Each worker's wages and the social security benefit formula would be indexed to reflect changes in wage levels up to the time he reaches age 62, becomes disabled, or dies to assure that future replacement rates would be relatively constant.

2. The benefit formula would provide somewhat lower replacement rates than now prevail—about 5 percent below the estimated 1979 level—and a 10-year transitional guarantee would be provided to assure that workers now approaching age 62 will get at least as much as the benefit table in the law at implementation (1979) would have provided.

3. As under present law, benefits would continue to be increased according to the increases in the cost of living after a person reached age 62 or became disabled and, in the case of the survivor's benefits, after the time of the worker's death.

In addition, the bill provides for changing the relationship between the minimum benefit, which is increasingly paid as a "windfall" to people who did not work regularly under the social security program, and the special minimum benefit, which is provided for long-term, regular workers with low earnings under the program. Specifically—

- A. The minimum benefit would be frozen for future beneficiaries at its 1979 dollar amount (about \$121.00) and would increase as the cost of living rises only after a person starts getting benefits; and

- B. The special minimum would be brought up to date with price increases since it was last adjusted (1973) and automatically kept up with prices in the future.

C. COVERAGE

It has long been recognized that the primary objective of the social security program, preventing dependency, can best be achieved if coverage under the program is compulsory and as universal as possible. To further this objective, your committee's bill would extend coverage to some 6 million jobs in Federal civilian, State and local, and nonprofit organization employment, which would result in nearly universal coverage. About 97 percent of the jobs in paid employment would then be covered.

Your committee has been concerned for some time because some workers are not eligible for retirement benefits under any system or are eligible for inadequate benefits and because windfall social security benefits occur when some workers are not covered under social security and some workers who are covered, but on an elective basis, may terminate their social security coverage. While there were valid

reasons for the special coverage exclusions and provisions enacted for these workers, your committee believes these reasons are no longer compelling and that the workers should be treated as are the great majority of the Nation's work force, who are compulsorily covered under social security and who do not have the right to terminate their coverage. This coverage would not be effective until 1982 to allow for adjustment of governmental staff retirement systems to take into account social security protection and taxes.

D. GENDER-BASED DISTINCTIONS AND TREATMENT OF SPOUSES

Your committee is concerned that the social security program provides adequate protection in terms of the needs of today's society and that women, as well as men, be treated equitably under the program. Therefore, your committee has directed the Secretary of Health, Education, and Welfare to carry out a detailed study of alternative proposals to (1) eliminate dependency as a requirement for entitlement to social security spouse's benefits, and (2) bring about, in practical terms, equal treatment of men and women under social security, taking into account relevant social and economic factors. However, without awaiting the results of this study (due 6 months from the date of enactment), your committee has adopted measures that move in this direction—

A. The gender-based differences of treatment for men and women under present law would be eliminated; and

B. Protection for spouses would be improved by (1) shortening the duration-of-marriage requirement for aged divorced spouse's benefits from 20 years to 5, and (2) providing that marriage or remarriage will not adversely affect a person's rights to dependents or survivors spouse's benefits.

E. RETIREMENT TEST

The bill would provide improvements in the provisions of the law which cause a reduction in benefit payments when an individual has significant earnings by—

A. Increasing the annual amount of earnings a beneficiary age 65 or older may have without having any benefits withheld to \$4,000 for 1978 and \$4,500 for 1979; and

B. Elimination of the monthly measure of retirement—the provision under which benefits may be payable for months in which earnings are low, regardless of total earnings for the year.

F. OTHER PROVISIONS

In addition, your committee's bill would provide for a number of other improvements in the social security cash benefits program.

G. INCOME AND BENEFITS EFFECTS OF THE BILL

The following table shows the effects of the provisions of your committee's bill in terms of benefit outgo and additional income. The net effect of the bill is shown on the bottom line of the table.

ESTIMATED EFFECTS OF H.R. 9346 ON THE NET INCREASE IN THE OASI AND DI TRUST FUNDS, COMBINED, IN CALENDAR YEARS 1978-83, BY PROVISION

(In millions of dollars)

	Effective date	1978	1979	1980	1981	1982	1983
REDUCTION IN BENEFIT PAYMENTS							
Decoupling, with 3 percent delayed retirement credits.	January 1979-----	70	351	803	1,473	2,377	
Elimination of marriage or remarriage as a bar to entitlement to benefits.	.....do-----	-1,135	-1,355	-1,454	-1,551	-1,654	
Reduction in duration of marriage required for divorced spouses benefits from 20 yr to 5 yr.	.....do-----	-137	-164	-177	-190	-204	
Changes in retirement test (total).....	January 1978-----	-54	-266	-328	-346	-367	-390
Increase annual exempt amount to \$4,000 in 1978 and to \$4,500 in 1979.	.....do-----	-267	-491	-554	-582	-611	-642
Eliminate the monthly measure.....	.....do-----	213	225	226	236	244	252
Eliminate retroactive payments of actuarially reduced benefits.	.....do-----	339	536	550	559	565	569
Increase special minimum benefit from \$9 per year of coverage to \$11.50, and apply automatic increases in the future.	January 1979-----	-12	-14	-14	-15	-16	
Changes in annual wage reporting provisions.	January 1978-----	(1)	-1	-4	-9	-18	-26
Eliminate gender-based distinctions from the law.	.....do-----	-4	-5	-6	-7	-8	-8
Limit increases in actuarially reduced benefits.	.....do-----	90	280	500	751	948	1,157
Increase in contribution and benefit base.	.....do-----	(1)	-12	-44	-112	-209	-346
Subtotal, excluding universal coverage.	.....do-----	371	-682	-514	-6	628	1,459
Universal coverage of Federal civilian employees, employees of State and local governments, and employees of nonprofit organizations.	January 1982-----					(1)	-94
Total reduction in benefit payments.....		371	-682	-514	-6	628	1,365
ADDITIONAL INCOME							
Contribution income resulting from financing changes.	January 1978-----	3,967	6,661	8,560	11,858	13,265	14,060
Contribution income resulting from universal coverage.	January 1982-----					11,741	14,231
Additional interest income.....		113	475	1,005	1,786	3,132	5,343
Total additional income.....		4,080	7,136	9,565	13,644	28,138	33,634
Net effect of bill.....		4,451	6,454	9,051	13,638	28,766	34,999

¹ Less than \$500,000.

II. SUMMARY OF PRINCIPAL PROVISIONS OF THE BILL

A. FINANCING

Consistent with the policy of your committee and the Congress to maintain the social security program on a sound financial basis, the bill would make provision for strengthening both the short- and long-range financial stability of the program, including meeting the cost of the benefit improvements recommended by your committee. To accomplish those purposes, your committee's bill would increase the contribution and benefit base (the maximum amount of a worker's annual earnings that is subject to social security taxes and creditable for benefits), revise the schedule of tax rates in the law, reallocate a portion of scheduled increases in the hospital insurance (HI) tax rate to the cash benefits (OASDI) program, and increase the future tax rates scheduled in the law. In addition, the bill would provide for standby authority for loans to the OASI and DI trust funds from Federal general revenues in the event—not contemplated in this century under current actuarial estimates—that trust fund levels fall below specified minimum levels.

1. Increase in contribution and benefit base

Your committee's bill provides for increasing the contribution and benefit base—in four steps—to a level where about 90 percent of all payroll in covered employment would be taxable for social security purposes (and about 93 percent of all workers would have their full earnings credited for benefit purposes). Accordingly, the bill would increase the base to \$19,900 in 1978, \$22,900 in 1979, \$25,900 in 1980, and \$27,900 in 1981, with automatic adjustments to keep up with average wage levels thereafter (as under present law).

2. Changes in OASDI contribution rates

Your committee has included provisions for allocating a small portion of future income from currently scheduled HI tax-rate increases to the OASDI program. In addition, tax rates for the OASDI program for employers and employees, each, would be increased (beyond the increases resulting from reallocation of scheduled HI tax-rate increases, which do not result in any net OASDI tax rate increase over present law).

Specifically, the reallocations from HI to OASDI would be 0.1 percent each for 1978–80 and 0.05 percent each for 1981 and after. Also, the OASDI contribution rates would be further increased from 5.0 percent each, by 0.15 percent each in 1981, an additional 0.30 percent each in 1985, and another 0.55 percent each for 1990–2010. The reallocations plus the rate increases result in OASDI rates of 5.05 percent for 1979–80, 5.15 percent for 1981–84, 5.45 percent for 1985–89, and 6 percent for 1990 and after.

3. Changes in self-employed contribution rates for OASDI

Your committee's bill would restore the self-employed rate to its original level of one and one-half times the employee rate, effective in 1981. (Since 1972, the social security cash benefits contribution rate for the self-employed has been below the level of one and one-half times the employee rate that was originally provided when the self-employed were first covered under the social security program in 1951.)

4. Change in allocation to the disability insurance trust fund

The committee bill would allocate an additional 0.35 percent of taxable payroll in the early years and even higher additional allocations in later years to the disability insurance trust fund to assure the financial soundness of the disability insurance program.

5. Standby authority for loans to the OASDI trust funds from general revenues with repayment tax provision

Your committee is especially concerned about the need for the public—current and future workers as well as social security beneficiaries—to be assured that the program will be able to meet its benefit obligations at all times. While the other actions your committee has taken would restore the financial soundness of the program, your committee believes that a further guarantee of the future financial stability of the cash benefit program is necessary.

Accordingly, your committee has included provision granting standby authority for automatic loans to the social security cash benefit trust funds from Federal general revenues whenever the assets of a cash trust funds drop below a 25-percent level of outgo. Your commit-

tee emphasizes its belief that, under reasonable projections, it will not become necessary for such loans to the trust funds to be made. If such loans are made in the future, the committee bill would provide for temporary social security tax-rate increases of 0.1 percent for employees and employers, each, and 0.15 percent for the self-employed, when the reserve level is 24 percent or less and the loan debt exceeds \$2 billion, to provide funds to repay the loans; repayment would begin when the reserve level rises above 30 percent.

B. REVISED BENEFIT STRUCTURE

About half of the existing long-range deficit in the OASDI program is the result of unintended effects of the cost-of-living increase provisions of present law. The basic problem under the present benefit structure is that future benefits for current workers will reflect increases in both wages and prices that occur during their working years. As a result, replacement rates—initial benefits as a percent of preretirement earnings—are erratic and unpredictable and, under current long range economic assumptions, are projected to rise significantly over time. About one-half of the long-range deficit is due to rising replacement rates in the future.

The bill would prevent the unintended rise in future replacement rates (and costs), and assure that future replacement rates would remain fairly constant at a level approximately 5 percent lower than the level that will prevail in January 1979. A major feature of the plan is that the worker's earnings (and the benefit formula) would be indexed to reflect the change in wage levels that has occurred during his working lifetime. As a result, benefits would be based on the worker's relative earnings position averaged over his working lifetime.

1. Wage indexing of earnings

A worker's earnings would be updated (indexed) to just prior to when the worker reaches age 62, becomes disabled, or dies to reflect the increases in average wages that have occurred since the earnings were paid. (Under present law, a worker's earnings are counted in actual dollar value.) The worker's earnings would be indexed by multiplying the actual earnings by the ratio of average wages in the second year before he reaches age 62, becomes disabled, or dies to the average wages in the year being updated.

2. Base year for indexing

A worker's earnings would be indexed by average wage increases through the second year before age 62 (the age of first eligibility), disability, or death. Earnings after age 62 or disability would be counted in actual dollar amount; cost-of-living increases would apply beginning with age 62, disability, or death.

3. Computation period

Benefits would be based on a worker's indexed earnings averaged over the number of years after 1950 (or age 21, if later) up to the year he reaches age 62, becomes disabled, or dies, whichever occurs first (excluding 5 years of lowest indexed earnings or no earnings). As under present law, the computation period would expand from 23 years for those reaching age 62 in 1979, up to 35 years for those reaching age 62 in 1991 or later.

4. *Benefit formula*

The benefit formula shown below would be applied to the average indexed monthly earnings (AIME) of workers who reach age 62, become disabled, or die in 1979:

- 90 percent of the first \$180 of AIME, plus
- 32 percent of AIME over \$180 through AIME of \$1,085, plus
- 15 percent of AIME above \$1,085.

For those who become eligible for benefits in the future, the dollar amounts (bend points) in the formula would be adjusted automatically (and rounded to the nearest dollar) as average wages increase.

5. *Maximum family benefit*

Maximum family benefits would bear the same relationship to primary insurance amounts (PIA) as they do under present law—ranging from 150 percent to 188 percent of the PIA. The family maximum would be determined by applying the following formula to the worker's PIA:

- 150 percent of the first \$230 PIA, plus
- 272 percent of PIA's over \$230 through \$332, plus
- 134 percent of PIA's over \$332 through \$433, plus
- 175 percent of PIA's above \$433.

In the future, the dollar amounts in the formula would be increased (and rounded to the nearest dollar) based on increases in average wages.

6. *Transition*

A worker who reaches age 62 after 1978 and before 1989 would be guaranteed a benefit no lower than he would have received under present law as of January 1979. For purposes of the guarantee, the January 1979 benefit table would not be subject to future automatic benefit increases, but all individual benefits would be subject to all cost-of-living increases in benefits beginning with age 62. This guarantee would not apply in disability and death cases.

7. *Treatment of earnings after age 62 or disability*

Earnings subsequent to the year of first eligibility (age 62) or onset of disability would be counted at actual dollar value (i.e., unindexed) and substituted for earlier years of indexed earnings if they would increase the worker's AIME and his PIA.

8. *Increase in delayed retirement credit*

For workers reaching age 62 after 1978, the current delayed retirement credit of 1 percent per year would be increased to 3 percent per year beginning at age 65 and taking account of months up to age 72 for which benefits are not paid. (For workers eligible for retirement benefits before 1979, the current 1-percent per year credit would continue to apply.)

Estimated number of people affected and dollar payments: In 1983 (the first year increased benefits reflecting the 3-percent delayed retirement credits would be payable based on credits provided for 1982), 100,000 people would get higher benefits, and \$15 million in additional payments would be made as a result of this provision.

9. *Freeze the minimum benefit*

The minimum benefit for future beneficiaries would be frozen at an amount equal to the minimum benefit in effect in January 1979 (esti-

mated to be about \$121). Benefits based on the minimum would be kept up to date with rising prices only after age 62, disability, or death.

Estimated number of people affected and dollar payment: Some 150,000 people would be affected by this amendment, and benefit payments would be reduced by an estimated \$7 million in the first full calendar year, 1980.

10. Increase in the special minimum benefit

Under present law, a special minimum benefit is provided for long-term, low-paid workers equal to \$9 times the number of years of coverage a worker has in excess of 10 and up to 30; the special minimum benefit is not subject to cost-of-living increases under the automatic adjustment provisions. The bill would increase the \$9 figure to \$11.50 and provide that the special minimum would be kept up to date with future increases in the cost of living for both present and future beneficiaries. Thus, the highest possible special minimum would be increased from \$180 to \$230 in 1979.

Estimated number of people affected and dollar payments: 220,000 people would get increased benefits on the effective date, and additional benefit payments in the first full calendar year, 1980, would amount to an estimated \$14 million.

C. COVERAGE

Old-age, survivors, disability, and hospital insurance coverage would be extended to an additional 6 million jobs.

1. Federal civilian employees

Under present law, services performed in Federal civilian employment that are covered under a staff-retirement system established by a law of the United States are excluded from social security coverage, as are services performed in Federal employment by the President, the Vice President, Members of the U.S. Congress, legislative employees of the U.S. Congress, inmates of Federal penal institutions, certain student employees of Federal hospitals, and temporary, emergency employees. The bill would extend social security coverage to Federal services performed by these offices and employees. The bill directs the Secretary of Health, Education, and Welfare to conduct a study with the Civil Service Commission to make recommendations for coordinating benefits and costs of the OASDI and Civil Service Retirement programs in such a way that Federal workers will be no worse off so far as costs and benefits are concerned compared to their treatment under present law. The report would be submitted by January 1, 1980.

Effective date: January 1, 1982.

2. State and local employees

Under present law, social security coverage for State and local employees generally is available only on a group basis through voluntary agreements between the States and the Secretary of Health, Education, and Welfare. Coverage for a group of State and local employees can be terminated after 2 years' notice by the State if the group has been covered under social security for 5 years at the time notice is given, or by the Secretary at any time, if he finds that the State has

failed or is unable legally to comply with the terms of the agreement and 2 years' notice is given. The bill would provide compulsory social security coverage for State and local employees (including employees of Guam, American Samoa, and the District of Columbia) who are not compulsorily covered under present law.

Effective date: January 1, 1982.

The bill also would provide that coverage could not be terminated by either the State or the Secretary of Health, Education, and Welfare before compulsory coverage was effective unless the notice was given before September 14, 1977. In such cases where coverage has been terminated it would be restored effective January 1, 1982.

Effective date: September 14, 1977.

3. Employees of nonprofit organizations

Under present law, employees of certain nonprofit organizations, described in section 501(c)(3) of the Internal Revenue Code, are excluded from coverage under social security unless the organization files a certificate expressing a desire to have coverage extended to its employees. Coverage of the employees of an organization that filed such a certificate may be terminated after 2 years' notice by the organization, if the employees had been covered under social security for at least 8 years before the notice was given, or by the Secretary of the Treasury, with concurrence of the Secretary of Health, Education, and Welfare, at any time if he finds that the organization has failed or is unable to comply with the law and 60 days' notice is given. The bill would provide compulsory coverage under social security for these employees of nonprofit organizations.

Effective date: January 1, 1982.

The bill also would provide that coverage could not be terminated by either the nonprofit organization or the Secretary of the Treasury before compulsory coverage was effective unless the notice was given before September 14, 1977. In such cases where coverage has been terminated, it would begin again on January 1, 1982.

Effective date: September 14, 1977.

4. Quarter-of-coverage provision

The bill would grant retroactive quarter-of-coverage credits for eligibility, but not benefit computation purposes, to employees who were in Federal civilian, State, or local, or nonprofit organization employment to which social security coverage was extended under this bill on January 1, 1982, if the employees earned at least six quarters of coverage in such employment after 1981. The quarters of coverage would be granted based on periods of employment prior to January 1, 1982, which were in the same category of employment and which were excluded from social security coverage.

Effective date: January 1, 1982.

5. Totalization

Under present law, there is no authority in the Social Security Act for entering into agreements with other countries to provide for coordination between the social security systems of the United States and of other countries. The bill would authorize the President to enter into bilateral agreements (of a kind generally known as totalization

agreements) with interested foreign countries to provide for limited coordination between this country's social security system and those of other countries, subject to congressional oversight. Draft agreements worked out with Italy and West Germany have been implemented by their laws but cannot become effective agreements in the United States until the Congress enacts the authority provided in this bill.

Effective date: Upon enactment.

6. *Exclusion of limited partnership income*

Under present law each partner's share of partnership income is includable in his net earnings from self-employment for social security purposes, irrespective of the nature of his membership in the partnership. The bill would exclude from social security coverage, the distributive share of income or loss received by a limited partner from the trade or business of a limited partnership. This is to exclude for coverage purposes certain earnings which are basically of an investment nature. However, the exclusion from coverage would not extend to guaranteed payments (as described in section 707(c) of the Internal Revenue Code), such as salary and professional fees, received for services actually performed by the limited partner for the partnership.

Effective date: Taxable years beginning after December 31, 1977.

7. *Social security employer taxes on tips when deemed as wages for the Federal minimum wage*

Under the Fair Labor Standards Act of 1938, an employer can pay an employee less than the Federal minimum wage by an amount equal to the tips received by the employee but not less than 50 percent of the minimum wage. Social security taxes are not paid by the employer on the amount of tips deemed to be wages. Under the bill, employers would be liable for the employers' share of the social security taxes on the deemed wages up to the minimum wage.

Effective date: Wages paid for employment performed after December 31, 1977.

8. *Clergymen*

Under present law, the services of a clergyman are covered under the self-employment provisions of the Social Security Act unless the clergyman files an application for an irrevocable exemption from coverage on the grounds that he is opposed either conscientiously or because of religious principles to the acceptance of public insurance such as social security. Under the bill, a clergyman who filed an application for exemption in the past would be given an opportunity to revoke his exemption and obtain social security coverage prospectively.

Effective date: Taxable years ending on or after enactment.

9. *Other State and local changes*

Other changes relate to social security coverage of policemen and firemen in Mississippi and Illinois who are under staff retirement systems, and social security coverage of State and local employees in New Jersey under the divided retirement system procedure, and the special provision in the law applying to the Wisconsin retirement fund.

Effective date: Upon enactment.

D. EQUAL TREATMENT OF MEN AND WOMEN

1. *Equal rights**a. Father's benefits*

Benefits would be provided for young husbands and fathers who have in their care a child who is under age 18, or disabled, and who is entitled to benefits.

Effective date: Effective with respect to benefits for months after December 1977.

Estimated number of people affected and dollar payments: 2,000 people would become eligible for benefits or eligible for larger benefits on the effective date. About \$2 million in additional benefits would be paid in the first full year of operation.

b. Benefits for divorced men

Benefits would be provided for aged divorced husbands and aged or disabled divorced widowers.

Effective date: Effective with respect to benefits for months after December 1977.

Estimated number of people affected and dollar payments: 2,000 people would become eligible for benefits or eligible for larger benefits on the effective date. About \$3 million in additional benefits would be paid in the first full year of operation.

c. Remarriage of widowers before age 60

A widower would be permitted to obtain benefits on a deceased wife's earnings record if he is not married at the time he applies for widower's benefits, as widows now can, instead of if he has not remarried, as present law provides.

Effective date: Effective with respect to benefits for months after December 1977.

Estimated number of people affected and dollar payments: Very few people would be affected and the additional benefits would be negligible.

d. Transitional insured status benefits

Husband's and widower's benefits would be provided under the transitionally insured status amendment of 1965.

Effective date: Effective with respect to benefits for months after December 1977.

Estimated number of people affected and dollar payments: Very few people would be affected and the additional payments would be negligible.

e. Special age-72 payment amounts for certain uninsured individuals

When both members of a couple are receiving special age-72 payments, the amount of the payments would be divided equally between the two, instead of giving the husband a full benefit and the wife one-half the husband's benefit.

Effective date: Effective with respect to benefits for months after December 1977.

Estimated number of people affected and dollar payments: 2,000 couples would be affected. Provision would have no cost.

f. Benefits of spouses of childhood disability or disabled worker beneficiaries

Benefits of the spouse of a female disabled worker beneficiary or childhood disability beneficiary would be terminated if she ceases to be disabled, as is now the case if the disabled worker or childhood disability beneficiary is a male. (Beneficiaries whose benefits are terminated under this provision would be able to become reentitled to benefits as a result of provisions eliminating marriage or remarriage as a factor in terminating or reducing benefits, which has a later effective date.)

Effective date: Effective with respect to benefits for months after December 1977.

Estimated number of people affected and dollar payments: The number of people affected would be very small and the payments would be negligible.

g. Benefit rights of illegitimate children

An illegitimate child's status for purposes of entitlement to child's insurance benefits would be determined with respect to the child's mother in the same way as it is now determined with respect to the child's father.

Effective date: Effective with respect to benefit for months after December 1977.

Estimated number of people affected and dollar payments: Very few people would be affected and the additional payments would be negligible.

h. Waiver of civil service survivors' annuities

A widower, as well as a widow, would be permitted to waive payment of a Federal benefit attributable to credit for military service performed before 1957 in order to have the military service credited toward eligibility for, or the amount of, a social security benefit.

Effective date: Effective with respect to benefits for months after December 1977.

Estimated number of people affected and dollar payments: A negligible number of people would be affected. The provision would have no cost.

i. Crediting of self-employment income in community property States

The self-employment income of a married couple in a community property State would be credited for social security purposes to the spouse who exercises more management and control over the trade or business, instead of being deemed the husband's, unless the wife exercises substantially all of the management and control of the business, as present law provides. Where the husband and wife exercised the same amount of management and control, the self-employment income would be divided equally between both the husband and wife.

Effective date: Effective with respect to taxable years beginning after December 1977.

Estimated number of people affected and dollar payments: A negligible number of people would be affected. Provision would have no cost.

2. *Elimination of marriage (or remarriage) as a bar to entitlement to dependents' or survivors' benefits, and as an event which terminates entitlement to, or reduces, such benefits.*

Entitlement to benefits as a divorced wife or husband, widow or widower, or surviving divorced widow or widower (including those with an entitled child in their care), parent, or child would not be barred or terminated because of marriage or remarriage. Neither would remarriage serve to cause any reduction in the benefits paid aged widows or widowers.

Effective date: Effective with respect to benefits for months after December 1978.

Estimated number of people affected and dollar payments: 670,000 people would become eligible for benefits or eligible for larger benefits on the effective date. About \$1.4 billion in additional benefits would be paid in the first full calendar year, 1980.

3. *Reduced duration-of-marriage requirement for divorced spouses.*

The length of time a divorced person must have been married to a worker in order for benefits to be payable to the person as an aged divorced spouse or aged or disabled surviving divorced spouse would be reduced from 20 years to 5.

Effective date: Effective with respect to benefits for months after December 1978.

Estimated number of people affected and dollar payments: 70,000 people would become eligible for benefits or eligible for larger benefits on the effective date. About \$160 million in additional benefits would be paid in the first full calendar year, 1980.

4. *Study of proposals to eliminate dependency and sex discrimination*

The Secretary of Health, Education, and Welfare would be directed to carry out a detailed study of proposals (1) to eliminate dependency as a requirement for entitlement to social security spouse's benefits, and (2) to bring about the equal treatment of men and women (in any and all respects under the program). A full and complete report on the study shall be submitted to the Congress within 6 months of enactment of the bill.

E. IMPROVEMENT OF THE EARNINGS TEST

1. *Increase in annual exempt amount of earnings*

The amount that a beneficiary age 65 or over but under age 72 may earn in a year and still be paid full social security benefits for the year would be increased from the present \$3,000 in 1977 to \$4,000 in 1978 and \$4,500 in 1979 with future automatic increases as wage levels rise. The amount that a beneficiary under age 65 could earn and still be paid full benefits would be determined under present law.

Effective date: Taxable years ending after December 1977.

Number of people affected and dollar payments: For 1978, 800,000 people would receive increased payments; 100,000 people who get no payments under present law could get some payment. For 1979, 800,000 people would receive increased payments; 100,000 people who get no payments under present law could get some payments. Additional benefits amounting to \$0.3 billion would be paid out in 1978 and \$0.5 billion in 1979.

2. *Elimination of the monthly earnings test*

Under present law, full benefits are paid to a beneficiary, regardless of the amount of annual earnings, for any month in which the beneficiary neither works for wages in excess of the monthly measure (\$250 in 1977; more in later years) nor renders substantial services in self-employment. The bill would eliminate the monthly measure of retirement and convert the retirement test to a strictly annual test for years after the initial year of retirement.

Effective date: Taxable years ending after December 1977.

Number of people affected and dollar payments: About 250,000 people would be affected during the first full year. Benefit payments would be reduced by about \$0.2 billion each year.

3. *Foreign work test*

The number of days that a beneficiary under age 72 who works outside the United States in noncovered employment can work in a month and still be eligible for a benefit for that month would be increased from 6 to 8 in 1978 and to 11 in 1979 and thereafter.

Number of people affected and dollar payments: It is estimated that the proposed changes would be a liberalization for about one-half of the 1,500 beneficiaries (out of the approximately 300,000 beneficiaries who live in foreign nations) who now lose benefits because of work activity.

The cost of such a change would be negligible.

F. ANNUAL WAGE REPORTING

Under present law, employers will report their employees' wages for social security and income tax purposes annually on forms W-2 beginning with wages paid in 1978. Employers are required to report quarterly wage data on the forms W-2 to enable the Social Security Administration to determine whether a worker has enough quarters of coverage to be eligible for social security benefits. The bill would change the quarter-of-coverage measure and certain automatic provisions of the social security law so that annual data would be used, instead of quarterly data. Under the bill, employers would no longer have to report quarterly data on the forms W-2 and they and the Government would realize the maximum advantages that annual reporting was designed to achieve.

The most significant program change would be a provision setting out how annual wages would be credited in terms of quarters of coverage. Under present law, a worker generally receives credit for a quarter of coverage for a calendar quarter in which he received at least \$50 in wages. Under your committee bill, a worker would receive one quarter of coverage (up to a total of four) for each \$250 of earnings in a year, and the \$250 measure would be increased automatically every year to take account of increases in average wages.

Effective date: January 1, 1978.

G. OTHER PROVISIONS

1. *Eliminate windfall cost-of-living increases*

Under your committee's bill, future benefit increases for people receiving actuarially reduced benefits, would be reduced in proportion

to the reduction in the person's basic benefit. (Under present law, the failure to fully reduce the amount of the increase results in increases beyond those needed to keep up with changes in the cost of living.) The provision would apply to people who receive reduced benefits after December 1977; special rules would apply to those already on the rolls.

Effective date: Benefit increases after 1977.

Estimated number of people affected and dollar payments: About 15 million people would have their benefits affected by the provision at the time of the June, 1978 cost-of-living benefit increase, and there would be a program saving of \$90 million in calendar year 1978.

2. *Limitation on retroactive benefits*

Under present law, a person who files an application after he is first eligible for benefits may be paid benefits, including actuarially reduced benefits, for a retroactive period up to 12 months before the month in which the application is filed, if all conditions of entitlement are met for those months. Under the bill, except in those cases where the benefits were disability-related or where unreduced dependents benefits were involved, monthly cash benefits would not be paid retroactively for months before the month in which the application was filed when such retroactivity would result in permanently reduced benefits.

Effective date: With applications filed on or after January 1, 1978.

Number of people affected and dollar payments: In 1978, an estimated 1 million people would be affected by the change. Reductions in benefit payments would range from \$0.3 billion in 1978 to \$0.6 billion in 1982.

3. *Early payment of social security and SSI benefit checks in certain situations*

Under present law, social security benefit payments for a particular month are payable after the end of that month, and payment is normally made on the third day of the month; SSI benefit checks for a particular month are delivered on the first day of that month. Under the bill, when the delivery date falls on a Saturday, Sunday, or legal public holiday, social security and SSI checks would be delivered on an earlier date.

Effective date: Upon enactment.

III. GENERAL DISCUSSION

A. FINANCING

Over the years your committee and the Congress have devoted more attention to financing than any other aspect of the social security program in order to assure that funds will be available to meet benefit payments as they fall due. Whenever benefit improvements have been enacted, your committee has recommended, and the Congress has provided, financing arrangements that, based on the best available economic and demographic assumptions, assured the future financial soundness of the program over the long-range future.

When the Congress last enacted major social security legislation, in 1973, the program was adequately financed, both in the short run and

over the long term, based on then-current assumptions which were considered reasonable by economists and actuaries at that time. It was assumed at that time that over the long range wages would rise at an average annual rate of 5 percent and prices at an average annual rate of 2¾ percent and that the fertility rate would be around 2.5.¹

Under these assumptions, trust fund levels would have stabilized around 1978 at about 60–65 percent of a year's outgo; over the long term, the estimated actuarial balance was about –0.5 percent of taxable payroll, which was not unreasonable, given the inherent uncertainty of making economic and demographic assumptions for a dynamic system with built-in cost-of-living increases over a 75-year period.

Since 1973, the Nation has experienced much higher rates of inflation and unemployment as well as declines in the fertility rate and real wage growth. As a result of recent and current economic experience, the social security trust funds have been experiencing annual deficits since 1975 and deficits are projected to continue in the future. In addition, the assumptions on which estimates of social security income and outgo over the long term are based have been revised to reflect what now is considered a more realistic view of the future. As a result, the long-range deficit has increased to over 8 percent of taxable payroll.

The recent sharp decline in birth rates means that the number of people working and paying social security contributions in the future will be smaller in relation to the number of people drawing social security benefits. For example, today there are about three workers for every person getting social security benefits; in the next century, it is expected that there will be only about two workers for every beneficiary. Consequently, the cost of the program per worker will rise.

About half of the long-range deficit under present law is due to revised demographic assumptions and the other half is the effect of changes in the long-range economic assumptions on replacement rates—initial benefit levels as a percent of pre-retirement earnings.

Whereas replacement rates would have been relatively constant in the future under the economic assumptions made when the automatic adjustment provisions were enacted in 1972, replacement rates under the revised assumptions are now expected to rise in the future, particularly after the mid-1990's. The decoupling plan proposed by your committee would prevent replacement rates from rising in the future. The proposal would reduce the long-range deficit by more than one-half—from 8.2 percent to 3.49 percent of payroll. However, since the present benefit structure does not have significant cost effects until the mid-1980's and later, decoupling would not impact significantly on benefit outgo until after the mid-1980's and it does not take care of the increased costs due to recent inflation, the decline in the birth rate or the increase in the incidence of disability.

In order to eliminate the short-range deficit due to recent and current economic experience and to reduce the longer-range deficit due to demographic shifts and disability experience, the committee bill includes changes in social security tax rates for employees, employers,

¹ High- and low-cost estimates were prepared based on fertility rates of 2.3 and 2.8, respectively.

and the self-employed, and increases in the contribution and benefit base for employees, employers, and the self-employed.

While the financing provisions of the bill would not completely assure the long-range soundness of the program for all of the customary 75-year valuation period, your committee believes that because there is considerable uncertainty about future demographic and economic developments—changes in birth rates, labor-force participation of women and the aged, and productivity gains—it is not now necessary to take steps to assure the program's financing for the full 75-year period. The legislation eliminates the medium-range deficits (over the next 25) years and provides adequate financing well into the next century. Your committee keeps continuously abreast of developments affecting social security financing and expects to make recommendations in the relatively near future to respond to the recent and unexpected rise in the projected cost of the disability insurance program.

1. Increase in contribution and benefit base

Your committee's bill provides for increasing the contribution and benefit base—in four steps—to a level where about 90 percent of all payroll in covered employment would be taxable for social security purposes (and about 93 percent of all workers would have their full earnings credited for benefit purposes). When the social security program began in 1937, about 92.5 percent of all payroll in covered employment was covered, and about 97 percent of the workers in covered employment had their full earnings counted for benefit purposes. Your committee believes that it would be desirable to move toward taxing a higher proportion of total payroll in covered employment than the 85 percent that is now taxable.

Accordingly, your committee's bill provides for *ad hoc* increases in the contribution and benefit base in 1978, 1979, 1980, and 1981. After 1981, the base would be automatically adjusted to keep up with average wage levels in the same way the present-law base is adjusted. As a result of the automatic adjustment, the proportion of total payroll covered by the base will be eliminated at a constant level over the long run.

The following table shows the contribution and benefit bases projected under present law and under your committee's bill:

Years	Present law	Committee bill
1978.....	\$17, 700	¹ \$19, 900
1979.....	18, 900	¹ 22, 900
1980.....	20, 400	¹ 25, 900
1981.....	21, 900	¹ 27, 900
1982.....	23, 400	30, 000
1983.....	24, 900	31, 800
1984.....	26, 400	33, 600
1985.....	27, 900	35, 400
1986.....	29, 400	37, 500
1987.....	31, 200	39, 600

¹ Ad hoc increases.

Special provisions are included in your committee's bill to exempt the ad hoc earning base increase from tier-II of the Railroad Retirement Act and the Pension Benefit Guaranty Corporation (PBGC). Those provisions are discussed in some detail in item G-4.

2. Changes in OASDHI tax rates

Since raising the contribution and benefit base would result in additional income to the HI program, it is possible, under your committee's bill, to transfer a portion of future tax rate increases already scheduled for HI to the OASDI program, without adversely affecting the status of the HI trust fund. The bill therefore would provide for allocating a portion of future income from HI tax-rate increases already scheduled in the law to the OASDI program as a way of meeting part of currently projected OASDI income shortfalls. Of the 0.20 percent HI tax-rate increase scheduled for employers and employees each in present law for 1978, 0.10 percent would be shifted to OASDI for the years 1978 through 1980, and 0.05 percent would be shifted in 1981 and thereafter.

The tax rates for the OASDI program for employers and employees, each, would be increased (beyond the increases resulting from reallocation of scheduled HI tax-rate increases, which do not result in any net OASDHI tax rate increase over present law) by 0.15 percent, 0.35 percent, and 0.55 percent in 1981, 1985, and 1990, respectively. Thus, by 1990 the overall tax rate increase would amount to a 1.0 percent each, brings the total combined OASDHI tax rates to 7.45 percent each, the level scheduled in present law for the year 2011 and thereafter. The present law rates and the rates under your committee's bill are shown below.

TAX RATES FOR EMPLOYER AND EMPLOYEE, EACH, PRESENT LAW AND COMMITTEE BILL

[In percent]

Years	OASDI		HI		Total	
	Present law	Bill	Present law	Bill	Present law	Bill
1977-----	4.95	4.95	0.90	0.90	5.85	5.85
1978-80-----	4.95	5.05	1.10	1.00	6.05	6.05
1981-84-----	4.95	5.15	1.35	1.30	6.30	6.45
1985-----	4.95	5.45	1.35	1.30	6.30	6.75
1986-89-----	4.95	5.45	1.50	1.45	6.45	6.90
1990-2010-----	4.95	6.00	1.50	1.45	6.45	7.45
2011 and later-----	5.95	6.00	1.50	1.45	7.45	7.45

3. Changes in self-employed tax rates for OASDI

Your committee's bill provides for changes in the OASDI tax rate applied to self-employment income so as to reestablish the original ratio of 1½ times the employee rate. When the self-employed were first covered under the social security program in 1951, the contribution rate for them for cash benefits was three-fourths of the combined employee-employer rate, which is the equivalent of one and one-half times the rate paid by employees. Since a self-employed person gets the same protection that an employee with the same earnings gets under the program, there is a financial disadvantage to the program in covering the self-employed person, as compared to covering an employee, unless the self-employed person pays contributions at a rate as high as the combined employee-employer rate. On the other hand, though, looked at from the standpoint of an individual contributing toward his own protection, the self-employed individual could easily feel that he was being overcharged if he were required to pay social security contributions over a lifetime at the combined em-

ployee-employer rate. The self-employed rate of one and one-half times the employee rate that was established when the self-employed were first covered represents a reasonable compromise between these alternatives.

In the last several years, the social security cash benefits contribution rate for the self-employed has been below the level of one and one-half times the employee rate that was originally provided. Your committee believes that the self-employed rate should be restored to its original levels of one and one-half times the employee rate and has included such a change in the bill.

TAX RATES FOR THE SELF-EMPLOYED, PRESENT LAW AND COMMITTEE BILL

[In percent]

Years	OASDI		HI		Total	
	Present law	Bill	Present law	Bill	Present law	Bill
1977-----	7.00	7.00	0.90	0.90	7.90	7.90
1978-80-----	7.00	7.10	1.10	1.00	8.10	8.10
1981-84-----	7.00	7.70	1.35	1.30	8.35	9.00
1985-----	7.00	8.20	1.35	1.30	8.35	9.50
1986-89-----	7.00	8.20	1.50	1.45	8.50	9.65
1990 and later-----	7.00	9.00	1.50	1.45	8.50	10.45

4. Change in allocation to the disability insurance trust fund

The committee bill would revise the allocation of tax income to the disability insurance trust fund, beginning in 1978, to assure the financial soundness of the disability insurance program. The present-law and proposed allocation schedules are shown below:

ALLOCATION TO DISABILITY INSURANCE TRUST FUND

[In percent]

Calendar year	Taxable wages, employer-employee—each		Self-employment income	
	Present law	Bill	Present law	Bill
1977-----	0.575	0.575	0.815	0.815
1978-----	0.600	0.775	0.850	1.090
1979-80-----	.600	.750	.850	1.055
1981-84-----	.650	.800	.920	1.200
1985-----	.650	.900	.920	1.350
1986-89-----	.700	.900	.990	1.350
1990-2010-----	.700	1.100	.990	1.650
2011 and later-----	.850	1.100	1.000	1.650

This new re-allocation will increase disability insurance financing by 0.56 percent on a long-term basis.

Your committee realizes the necessity of allocating money to the disability insurance trust fund which could otherwise be exhausted in late 1978. It regrets, however, that it must once again make a re-allocation to this program without dealing legislatively with some of the problems which may be contributing to adverse experience in disability. The decoupling-wage indexing provisions in this bill with no transition guarantee will have the effect of reducing some of the work-disincentive aspects of the current benefit formula. However, action may be necessary in other aspects of the program such as the Federal-

State administrative structure (including the appeals process), the definition of disability, other rehabilitation and work-incentives provisions, and the treatment of the blind as compared to other groups of disabled people. It was decided by the Subcommittee on Social Security that there was not time to go into all the complex issues in disability and enact legislation this year. However, the Subcommittee on Social Security plans to take up disability in phase II of this legislation immediately in the next session. Your committee understands that the Department of Health, Education, and Welfare is exploring various amendments to the disability program and will present them to the Congress early next year. This will help the Subcommittee in finding solutions to these difficult problems.

5. Standby authority for loans to the OASDI trust funds from general revenues

Your committee is especially concerned about the need for the public in general—current and future workers as well as social security beneficiaries—to be assured that the program will be able to meet its benefit obligations at all times. While the other actions your committee has taken would restore the financial soundness of the program into the next century your committee believes that a further guarantee of the future financial stability of the program is necessary.

Accordingly, your committee has included a provision granting standby authority for automatic loans to the OASDI trust funds appropriating funds from Federal general revenues whenever the assets of a cash trust fund drops below a specified level in relation to annual outgo. Specifically, if at the end of any calendar year the assets of the OASI or DI trust fund amounted to less than 25 percent of the outgo from the fund in the calendar year, an automatic loan would be made. The amount of the loan would be equal to the difference between the year-end balance in the fund and 27½ percent of the year's outgo. The loans would be automatically repaid with accrued interest, when assets of the fund at the end of a year exceeded 30 percent of the year's outgo from the fund. To provide for automatic repayment, in case a loan was made, there would be temporary social security tax-rate increases of 0.1 percent for employees and employers, each (0.15 percent for the self-employed), if at the end of any year in which a loan was made the reserve level is less than 35 percent and the loan debt exceeds \$2 billion; the temporary tax rate increase would go into effect 1 year later.

Your committee emphasizes its belief that, under reasonable projections, it will not become necessary for such loans to the trust funds to be made in this century. Your committee expects that, if—as is not now anticipated—the loan authority should actually be needed, the Subcommittee on Social Security would immediately meet to consider the financial status of the OASDI program and alternative measures to deal with the situation. Nevertheless, your committee believes—in view of the extensive publicity the financing difficulties of the program have received and the resulting concern about the financial soundness of the program—that an appropriate guarantee such as that recommended by your committee is necessary and desirable.

Under your committee's bill, the standby authority for automatic loans would not be applicable to the HI fund. Even under existing

law, the HI trust fund balances are adequate for a number of years, and your committee's bill would provide additional revenue to this trust fund. Pending hospital cost containment legislation, if adopted, would have the effect of further strengthening the hospital insurance fund. Moreover, it is expected that the broad issue of health care financing (including financing of protection for beneficiaries of the present medicare program) will be considered when the President's national health insurance proposal is submitted during the second session of this Congress. Accordingly, your committee chose not to extend automatic borrowing authority to the HI fund at this time.

B. REVISED BENEFIT STRUCTURE

A major factor contributing to the long-range deficit is the projected rise in social security benefit replacement rates—initial benefit levels as a percent of prior earnings—under current long-range economic assumptions. This rise in replacement rates causes roughly one-half of the long-range deficit. Current projections show that benefit levels will rise by about 50 percent more than wages over the next 75 years, with most of this increase occurring after the 1990's. Replacement rates can fluctuate widely in the future, either up or down, depending on future changes in wages and prices. When the automatic provisions were enacted in 1972, it was expected, on the basis of the economic assumptions made then, that future replacement rates would remain fairly constant.

The projected increase in replacement rates under present law is due to the fact that benefits for people who will retire in the future will be affected by the changes in both wages and prices that occur during their working years. Their benefits will be affected by the automatic cost-of-living benefit increases, which were provided for by the 1972 social security amendments, since such increases apply to future benefits for current workers as well as the benefits paid to current beneficiaries. A current worker's future benefits will also increase because his earnings are expected to increase as economic growth occurs.

Under your committee's bill, the benefit structure would be "decoupled," that is, current workers' future benefits would be separated from those of beneficiaries currently on the rolls; the automatic cost-of-living increases would apply only to beneficiaries on the rolls when such benefit increases becomes effective. The decoupling proposal provides a new benefit formula for future beneficiaries that would produce replacement rates and costs that are much more predictable than under present law. The benefit amounts payable to workers who retire in the future would generally reflect the increase in the standard of living that occurs during their working years.

A major feature of the plan is that the worker's earnings would be indexed to reflect the change in general wage levels that has occurred during his working lifetime. These indexed earnings would be averaged and a three-step, weighted benefit formula¹ would be ap-

¹ The formula for 1979 follows:
 90 percent of the first \$180 of AIME, plus
 32 percent of AIME over \$180 through AIME of \$1,085, plus
 15 percent of AIME above \$1,085.

plied to his average indexed monthly earnings (AIME) to produce the worker's benefit amount. For those becoming entitled to benefits in the future, the benefit factors (percentage amounts) would not be indexed, but the bend points (dollar amounts) in the formula would be adjusted automatically as average wages increase.

By providing for the indexing of earnings and the benefit formula to the increase in general wage levels, benefits would be based on the worker's relative earnings position averaged over his working lifetime. As a result, all workers with the same relative earnings positions would be treated the same regardless of when they become entitled to benefits. Thus, while the dollar amounts of benefits of, say, workers with average earnings retiring 20 or 30 years apart would be substantially different, their replacement rates would be virtually the same.

In addition, your committee recommends that replacement rates be stabilized at a level 5 percent lower than the levels that will prevail in January 1979, when the revised benefit structure will be implemented. This recommendation would result in replacement rates more nearly in line with those that could have been anticipated under the 1972 legislation than those that have in fact occurred. Your committee believes that the gradual increase in replacement rates (and costs) that has occurred was unintended and that replacement rates that existed in recent years should be reestablished and maintained at relatively constant levels in the long-range future.

Your committee's bill would assure that social security benefit protection will generally keep pace with rising wages during the worker's lifetime and with the cost of living after the worker and his family start to receive benefits. This was the underlying premise of the 1972 automatic adjustment provisions and, in fact, the way the system generally operated before the automatic provisions were enacted.

Replacement rates for hypothetical workers at various earnings levels under present law and under the revised benefit structure are shown below. For purposes of illustration, replacement rates are defined as the worker's initial benefit as a percentage of final year earnings. This definition of replacement rates is convenient both for comparing two different benefit structures (present law and the new, revised structure under the committee bill) and for illustrative purposes. However, for purposes of evaluating the effect of the new system on various individuals and groups within the system, lifetime average earnings, indexed to earnings levels (AIME) may be a preferable measure on which to base replacement rates. Because of the effect of ad hoc increases in the contribution and benefit base in the past and those provided under your committee's bill, the replacement rates for the worker with earnings equal to the maximum taxable do not become stabilized for a number of years. The replacement rates appear to rise from 1985 through 2000 if measured in terms of final year earnings, as shown below, but—when measured in terms of average indexed monthly earnings—the replacement rates are shown to fall over this period.

REPLACEMENT RATES: HISTORICAL BEHAVIOR AND PROJECTIONS UNDER PRESENT LAW AND UNDER THE
COMMITTEE BILL

[In percent]

Calendar year	Replacement rate for worker with—		
	Low earnings ¹	Average earnings ²	High earnings ³
Historical behavior:			
1970	45	33	28
1971	47	35	31
1972	48	36	34
1973	51	39	35
1974	54	41	33
1975	56	43	30
1976	57	45	32
1977	58	44	32
Present law:			
1979	57	44	34
1985	58	47	34
1990	60	48	35
1995	66	49	37
2000	75	52	39
2010	84	56	42
2020	91	60	41
2030	96	63	46
2040	101	65	47
2050	106	67	48
Committee bill:			
1979	⁴ 57	⁴ 44	⁴ 34
1985	55	43	26
1990	55	43	26
1995	55	43	27
2000	55	43	28
2010	55	43	30
2020	55	43	30
2030	55	43	30
2040	55	43	30
2050	55	43	30

¹ Assumed at \$4,600 in 1976 and following the trends of the average.

² Assumed to be 4 times the average 1st quarter covered earnings.

³ Assumed at the maximum taxable under the program.

⁴ Reflects the benefit guarantee provision in the bill.

Note: The estimates in this table are based on the intermediate set of assumptions used in the 1977 OASDI trustees report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 62, ignoring the actuarial reduction factor, with the earnings in the year immediately prior to retirement.

The plan included in your committee's bill necessarily involves many substantial changes in provisions of present law, transitional provisions for the period during which the new system is implemented, and a number of "conforming" amendments to minimize possible disruptions that such a basic change in the benefit structure might otherwise produce.

The key elements of your committee's bill with respect to "decoupling" and the establishment of replacement rates that would be constant in relation to wage levels over time are outlined below.

1. Wage indexing of earnings

Your committee's bill would provide that a worker's benefits would be based on earnings levels that prevail just prior to age 62, disability, or death. The worker's earnings in each year after 1950 would be updated (indexed) to reflect the increase in average wages through the second year before the worker reaches age 62, becomes disabled, or dies.¹ Under present law, for the purpose of computing a worker's

¹ While it would seem reasonable to update earnings through the first year before the year of retirement, data on actual wage growth will not be available in time to allow for such current indexing. For 1978 and subsequent years, the law provides that earnings will be reported on an annual, rather than a quarterly basis. Thus, for example, data on average wage levels in 1980 will not become available until late in 1981—too late for indexing earnings of 1981 retirees; 1979 would be the indexing year for 1981 retirees.

benefit, his earnings are counted in actual dollar value, and these earnings do not reflect their value relative to average earnings at the time they were earned.

A worker's earnings would be indexed by multiplying the actual earnings by the ratio of average wages in the second year before he reaches age 62, becomes disabled, or dies, to the average wages in the year being updated. For example, if a worker earned \$3,000 in 1956, and retired at age 62 in 1979, the \$3,000 would be multiplied by the ratio of average annual wages in 1977 (\$10,002) to average annual wages in 1956 (\$3,514), as follows:

$$\$3,000 \times \frac{\$10,002}{\$3,514} = \$8,539$$

Thus, while the worker's actual earnings for 1956 were \$3,000, his relative or indexed earnings would be \$8,539. The worker's earnings each year would be adjusted in this manner. The result would be that the worker's benefits would be based on earnings levels that prevail just prior to age 62, and benefits would be based on the worker's relative earnings (that is, relative to average wages) averaged over the time the worker could reasonably be expected to have worked in covered employment.

Under present law, a worker who had above-average earnings in the 1950's and who had below-average earnings in the last 10 years is disadvantaged compared to one who had the reverse earnings pattern. While the two workers might have had the same earnings relative to average earnings over the period as a whole, the worker with the more recent above-average earnings would have higher average monthly earnings and, consequently, a higher benefit. Under the bill, these workers would get the same benefit amount, all other things being equal. Moreover, even if they reach age 62 at different times, they would get benefits that represented the same percent of the preretirement earnings.

In addition, indexing wages as proposed by your committee assures that benefit amounts would generally be related to the standard of living that prevails when the worker retires, becomes disabled, or dies; that is, workers would share in the general rise in the standard of living that occurs during their working lifetimes.

Your committee would also note that this method of indexing the worker's wages (the benefit formula would be similarly indexed) would virtually eliminate the unintended and growing advantage that young disabled workers and their families and the survivors of deceased workers have over retired workers under present law. Under the present method of computing benefit amounts, benefits for young disability and survivor cases are based on recent and relatively high earnings while benefits for new retirees are based, at least in part, on past earnings levels that were generally much lower than current earnings levels. For a worker with average earnings, the difference in benefit amounts can be substantial—almost \$150 a month, and in disability cases may create certain work disincentives. Under wage indexing, the difference would be virtually eliminated.

2. Base year for indexing

Your committee's bill would index earnings in retirement cases through the second year before age 62 (the age of first eligibility)

rather than to retirement (when the worker is first entitled to benefits). Indexing earnings to first eligibility has significant advantages in the areas of public understanding and administration.

Since the indexing point is based solely on the date of birth rather than on the year retirement benefits are elected, workers would be assured that their age-62 benefit would not decline should they choose to delay retirement and that it would rise with the Consumer Price Index. If wages were indexed to the date of retirement instead of to age 62, the worker's benefit amount would decline if average wages decline and could be lower than if he had retired earlier, depending on whether price increases outpace wage increases in the interim. Thus, with retirement indexing, both the worker and his family and Social Security Administration field personnel would be presented with a difficult decision. The worker would have to know how wage and price increases might affect his monthly benefit and would expect SSA personnel to advise him as to the optimum time to retire. Yet neither would have the information necessary to make the correct decision.

Thus, indexing to eligibility, as under the committee bill, would furnish greater certainty for the worker and SSA personnel in advising the worker concerning his decision as to when to retire and apply for benefits.

In addition, age-62 indexing is less complex from an administrative standpoint, and therefore administrative costs would be lower than if earnings were indexed to retirement.

Your committee recognizes that indexing to first eligibility presents some problems. It provides less incentive for a worker to remain in the work force since, all other things being equal, the worker who retires at age 62 and the worker who retires 3 years later at age 65 would receive benefits based on approximately the same PIA. Retirement indexing would provide benefit amounts that are closer to those provided under present law than would occur if earnings were indexed to age 62.

In order to deal with these problems and at the same time retain the advantages of indexing to age 62, your committee has provided for a substantial increase—from one-twelfth of 1 percent per month to three-twelfths of 1 percent per month (from 1 percent to 3 percent per year)—in the delayed retirement credit. Thus, incentives for remaining in the work force would be maintained, and workers' benefits would be increased as a result of work after age 65. (See item B-9 for a discussion of the increase in the delayed retirement credit.)

3. Computation period

Your committee's bill, like present law, provides that benefits will generally be based on a worker's earnings averaged over the number of years after 1950 (or age 21, if later) up to the year the worker reaches age 62, becomes disabled, or dies, whichever occurs first (excluding 5 years of lowest or no earnings). The number of years in the computation period will expand over time—for example, for workers reaching age 65 in 1979, the computation period will be 20 years, and eventually, for workers reaching age 65 in 1994 or later, the computation period will be 35 years.

With the use of actual earnings, as under present law, the expanding computation period depresses replacement rates since early wages, which are generally much lower than current wage levels, must be used in computing the benefits. However, wage indexing would assure that if a worker's earnings increase at the same rate as average wages in the economy, his average indexed monthly earnings (AIME) would rise at the same rate as average wages in the economy.

If the computation period were set at, say, 10 or 20 years, workers with 10 or 20 years of coverage could get the same benefit as workers with 35 or 40 years of service. To avoid such a result, some consideration would probably need to be given to providing for an explicit measure of length of service. However, an explicit provision for measuring continuity of service would pose administrative problems and would tend to raise questions of individual and group equity. Even if there were no administrative problems or questions of equity, a short computation period has the potential for workers to manipulate their earnings late in their careers so that their average earnings are relatively high and, as a result, benefit amounts are relatively high.

Your committee recognizes that, over time, the long computation period tends to distinguish between short- and long-term workers, since, all other things being equal, the latter would have higher average earnings and would, therefore, get higher benefit amounts. Since this method of recognizing length of service seems reasonably adequate and the alternatives present serious problems, your committee is not recommending any change in the computation period.

4. Benefit formula

Under present law, benefit amounts for a worker are derived from a table in the social security law and are related to the worker's average monthly earnings in covered employment. The benefit formula that roughly approximates the benefit amounts shown in the present table has 9 steps and, whenever the contribution and benefit base is increased, a new step is added to take account of the higher average earnings possible as a result of the new, higher base. Each time there is an automatic cost-of-living benefit increase, the percentage factors in the formula are increased by the percentage increase in the cost of living.

Under your committee's bill, the benefit formula shown below would be applied to the worker's average indexed monthly earnings (AIME). The formula is designed to produce benefit amounts which are on the average about 5 percent lower than the benefits which would be payable under present law to workers who retire in January 1979, when the revised benefit structure would go into effect:

90 percent of the first \$180 of AIME, plus
 32 percent of AIME over \$180 through AIME of \$1,085, plus
 15 percent of AIME above \$1,085.

This formula would apply to those who reach age 62, become disabled, or die in 1979. The dollar amounts or bend points (the AIME levels at which the weighting in the benefit formula changes) would be adjusted automatically as average wages increase for those who start getting benefits in the future, and the adjusted bend points would be rounded to the nearest multiple of \$1.

Indexing both the worker's wages and the bend points in the benefit formula results in maintaining the progressive benefit structure in the future and in the worker's benefit protection rising with general wage levels while he is working.

5. *Maximum family benefit*

Under present law, the maximum family benefit ranges from 150 percent to 188 percent of the primary insurance amount (PIA).¹

Your committee recommends retaining the same relationship between maximum family benefits and PIA's as in present law and to accomplish this recommends determining the family maximum by applying the following formula to the worker's PIA:

- 150 percent of the first \$230 of PIA, plus
- 272 percent of PIA's over \$230 through \$332, plus
- 134 percent of PIA's over \$332 through \$433 plus
- 175 percent of PIA's above \$433.

In the future, the dollar amounts in the formula would be increased based on increases in average wages. This would assure that the current relationship between maximum family benefits and PIA's is maintained.

6. *Transition*

Your committee's bill would provide a transitional provision to protect the benefit rights of people who are now approaching retirement and whose retirement plans have taken social security benefits into account.

Under your committee's bill, the transitional provision would "guarantee" that a worker (and his dependents or survivors) who first becomes eligible for retirement benefits within 10 years after the effective date would get an initial benefit that would be the higher of:

1. The benefit derived under the new, wage-indexing formula;
- or
2. The benefit based on the present law benefit as it is in the law on the effective date of the revised system—January 1979.

For purposes of the guarantee, the January 1979 benefit table would not be subject to future automatic benefit increases, but all individual benefits would be subject to all benefit increases becoming effective beginning with age 62. Earnings after age 61 would not be used under the guaranteed benefit computation. With the passage of time, benefits under the wage-indexing system would rise beyond the levels generally payable under the guarantee, since annual wage increases would be reflected in higher AIME and in the adjustments in the benefit formula each year while the guaranteed benefit amounts would remain constant in the future. As a result, the proportion of new retirees that would receive higher benefits under the guarantee would decrease with each passing year.

As shown below, it is estimated that the percent of new retirees eligible for guarantee benefits each year that would receive such benefits would decline from about 43 percent in 1979 to about 2 percent in 1988.

¹ The amount on which all benefits are based.

Percent of new retirees who become eligible for benefits during transitional period and who would get benefits under guarantee

Year :	Percent
1979 -----	43
1980 -----	33
1981 -----	18
1982 -----	18
1983 -----	8
1984 -----	4
1985 -----	3
1986 -----	2
1987 -----	2
1988 -----	2

The committee's bill would not provide a transition for death and disability cases since benefits in such cases are, under present law, often significantly higher than in retirement cases—a situation which, as discussed in the following section, your committee does not believe should be perpetuated.

7. Disability and death cases

The exclusion of disability and death cases from the transitional guarantee under the bill reflects your committee's concern that benefits in cases where the worker becomes disabled or dies while young may be significantly higher than benefits in retirement cases. This situation occurs because benefits in early disability or death cases are based on earnings averaged over a period as short as 2 years while earnings in retirement cases are averaged over a longer period. For example, benefits for those retiring at age 65 in 1979 will be based on earnings averaged over 20 years. As a result, a younger disabled worker and his family, or the survivors of a worker who died while young, can get higher benefits than the retired worker with the same earnings over the last several years, even though the retired worker worked in covered employment and paid social security taxes over a much longer period. In addition to this problem of the difference in treatment of younger as compared to older workers, your committee is concerned that the high benefits payable in early disability cases can act as a disincentive for disabled workers to return to work or to seek vocational rehabilitation.

Your committee's bill would very substantially reduce—and in some cases eliminate—the higher early disability and death benefit levels that are possible under present law. This effect is due to the fact that wage-indexing brings all earnings up to date, and the length of the computation period becomes less material.

8. Treatment of earnings after age 62 or disability

Under your committee's bill, earnings subsequent to the year of first eligibility (age 62) or onset of disability would be counted at actual dollar value (that is, they would not be indexed) and substituted for earlier years of indexed earnings in the initial computation or recomputation if they would increase a worker's AIME and his PIA. These provisions are similar to those under present law. However, since past earnings would be higher after wage indexing than under present law, earnings after age 62 would, on the average, have substantially less effect in increasing benefit amounts than under present law. Your committee, recognizing that this effect, like the effect of

indexing earnings to age 62, may work to reduce incentives for remaining in the labor force, has provided for a substantial increase in the delayed retirement credit (discussed below) in order to increase the incentives for people to continue working past age 65.

Special rules would apply in the case of earnings after age 61 during the transitional period. Workers who are eligible for benefits under the transitional guarantee (because they reach age 62 in the period from 1979 through 1988) could have earnings after age 61 included only under the wage-indexing computation. Earnings after age 61 cannot be included in the computation of guarantee benefits. (Workers age 62 or disabled before 1979 would continue to have their benefits computed and recomputed under the provisions of present law even if they work in covered employment after 1976.)

9. Increase in the delay of retirement credit

Under present law, a person who continues working and delays retirement beyond age 65 gets a delayed retirement credit of one-twelfth of 1 percent of his benefit for each month (1 percent a year) he does not receive a benefit from age 65 and up to the month he reaches age 72.

To provide incentives for workers to remain in the labor force, your committee's bill would provide for an increase in the delayed retirement credit to one-fourth of 1 percent for each month (3 percent per year).

The increased delayed retirement credit would be provided for months after 1981 for workers whose benefits are computed under the new wage-indexed system or under the 10-year transitional guarantee. (Workers whose benefits are computed or recomputed under present law would continue to receive the 1-percent delayed retirement credit.) In 1983, the first year increased benefits reflecting the 3-percent delayed retirement credit would be payable based on credits provided for 1982, 100,000 people would get higher benefits, and \$15 million in additional payments would be made as a result of this provision.

10. Treatment of earnings before 1951

Under your committee's bill, earnings before 1951 would not be indexed and could not be used in computing benefits under the new wage-indexing system. Instead, the present-law computation method that applies in the case of pre-1951 earnings would be used; this present-law computation provides for an "empirical" method of allocating pre-1951 earnings. Because earnings in the period 1937-51 are not kept on machine records, the empirical method was devised to simplify the computation of benefits for workers who had earnings before 1951 by eliminating the time-consuming manual computations that would otherwise have to be done. In general, under the empirical method, total earnings in the period from 1937 up to 1951 are allocated equally to each of the years prior to 1951 that are used to determine the worker's average earnings on which his benefit is based. For all practical purposes, the use of pre-1951 earnings in benefit computations would wash out in 1991—when a worker who was age 22 in 1951 reaches age 62. The old start computation is currently used for about 10 percent of new retired worker beneficiaries.

Under your committee's bill the "empirical" computation method provided under present law would continue to be used in the case of

pre-1951 earnings. Further, the "empirical" method would be extended to apply to cases involving workers who reach age 21 after 1936¹ and before 1951, since it would represent an administrative simplification. Over the next few years, an increasing proportion of computations using pre-1951 earnings will involve workers age 21 after 1936—people reaching age 62 in 1978 and later attained age 21 after 1936.

11. Freeze the minimum benefit

Your committee's bill provides that the initial minimum PIA of future beneficiaries would be frozen at an amount equal to the minimum PIA in effect in January 1979 (now estimated at about \$120.60), rounded up to the next higher dollar. After the worker reaches age 62, becomes disabled, or dies, benefits based on the minimum PIA would be updated to CPI increases, as under present law.

The present minimum age-65 benefit amount is \$114.30, and this amount, like other age-65 benefit amounts, is automatically increased for current and future beneficiaries as the cost of living (as measured by the Consumer Price Index) rises. About 3.2 million beneficiaries are receiving benefits based on the minimum, and currently about 10 percent of benefit awards to retired workers are based on the minimum. The minimum benefit of \$114.30 is payable on average monthly earnings of \$76 or less. It equals 1½ times \$76 and about 28½ times the lowest average monthly earnings possible. To many, the minimum benefit represents an identifiable welfare aspect of the social security program.

In the past, the minimum has been increased more rapidly than benefit amounts generally, reflecting the view held widely in the past that people receiving the minimum were among the poorest beneficiaries and were most in need of higher benefits. Over the period 1940-77, the minimum was increased tenfold, while benefit amounts above the minimum have increased about fivefold.

Increasingly, the minimum benefit is being paid to people who did not, during their working years, rely on their covered earnings as a primary source of support. Such people include, for example, workers whose primary work was in noncovered employment subject to a staff retirement system—such as Federal civilian employees. As of December 1975, about 45 percent of civil service retirement annuitants were receiving social security benefits—more than a quarter of whom were receiving the minimum. The median monthly civil service annuity for all those getting social security benefits was about \$390, while for those receiving the minimum benefit, it was over \$480.

Other people for whom the minimum does not represent a primary source of support include those with marginal labor-force attachment because they were primarily dependent on someone else. (About 46 percent of women entitled to both a benefit on their husbands' earnings and a primary benefit based on their own earnings receive the minimum benefit based on their own earnings.) Less than 25 percent of all workers who first became entitled to the minimum in 1970 had more than 9 years in covered employment since 1950, and slightly more than one-fifth had earned over \$1,800 in any year since 1950.

¹ Under present law the "empirical" formula applies to people who reached age 21 before 1937.

Because of the characteristics of people getting the minimum, it has been characterized as being a "windfall" to people who have not worked regularly under the program. Criticism of the windfall aspect of the minimum has, however, been growing, because the minimum is increasingly going to people who were not primarily dependent on earnings from covered employment.

In general, low-paid workers who worked regularly under the social security program would not be disadvantaged if the minimum were frozen. A regular worker retiring this year with lifetime earnings equal to the prevailing Federal minimum wage each year would get benefits substantially higher than the minimum—\$233.50 as compared with \$114.30. Even a person who worked regularly at half of the prevailing Federal minimum wage would get more than the minimum—\$169.30. Also the special minimum benefit provision for long-term, low-income workers is liberalized by this legislation as noted in the next section of this report.

Freezing the minimum emphasizes that the supplemental security income (SSI) program is an appropriate source of income for needy aged, blind, or disabled people. Those social security beneficiaries who qualify for the relatively lower minimum in the future who are needy could receive SSI to a greater extent at age 65 and after than is true today. The committee believes that this is a more efficient and appropriate method of dealing with the problem of poverty for those who have only a marginal attachment to work covered by social security. Your committee also recognizes that SSI payments are not provided for nondisabled people under age 65 but does not believe that freezing the minimum for people under age 65 would impose an undue hardship. Freezing the minimum would avoid the sharp drop in benefit amounts involved in the elimination of the minimum and would involve similar, though more gradual, reductions in future benefits for people with very low average earnings under social security.

Social security costs would be reduced by about 0.09 percent of taxable payroll over the long range as a result of freezing the minimum benefit amount. Some 150,000 people would receive lower benefits than under present law, and benefit payments would be reduced by \$7 million during the first year.

12. Increase in the special minimum benefit

Under your committee's bill, the special minimum benefit, that is provided for long-term, low-paid workers would be (1) increased to take account of price increases since it was last adjusted and (2) kept up to date with future increases in the Consumer Price Index (CPI) for both present and future beneficiaries.

Present law provides a special minimum benefit of up to \$180 a month for a worker with 30 years of creditable covered earnings and \$270 for a couple. Your committee's bill would increase these benefit amounts to \$230 for an individual and \$345 for a couple, effective for January 1979, with automatic increases thereafter. The special minimum is calculated by multiplying \$9 times the number of years of coverage a worker has in excess of 10 and up to 30—for a maximum multiplier of 20—and under the bill the \$9 figure would be increased to \$11.50. Generally, a "year of coverage" under present law and

your committee's bill is a year in which a person has earnings at least as high as one-quarter of the contribution and benefit base (\$1,125 in 1977) in effect for the year and this amount would rise with average wages in the future. In 1979, when the provision takes effect, the special minimum will generally be payable only to low-paid workers with 22 or more years of coverage.

Unlike the regular minimum benefit which, increasingly, may represent a "windfall" for people who did not work regularly under social security, people who get special minimum benefits are ordinarily workers with significant attachment to the covered work force but with very low earnings. The purpose of the special minimum benefit is to provide a reasonably adequate benefit for long-term, low-paid workers under social security without incurring the high costs (and windfalls) that could result from a large increase in the regular minimum benefit or from other possible general benefit adjustments.

The special minimum provision was enacted in 1972, at the same time that the SSI program was enacted, and was designed to help reduce the extent to which long-term, low-paid workers under social security would have to turn to a welfare program to supplement their income. At that time, and in 1973 when the special minimum was last adjusted, there were no provisions for automatic adjustments in SSI payment levels and no provision was made for cost-of-living increases in the special minimum. (Automatic cost-of-living increases in SSI payment standards—currently \$177.80 for an individual and \$266.70 for a couple—began in 1975.) Since 1973 the number of people drawing benefits based on the special minimum has declined from 217,000 to less than 400 in July 1977.

Your committee believes that if the special minimum is to fulfill its intended purpose, it must be kept up to date in the future. Thus, the bill would provide that the special minimum benefit would be made inflation proof for future beneficiaries by automatically increasing it according to increases in the cost of living. Further, once on the social security rolls, special minimum beneficiaries would receive automatic cost-of-living increases in their special minimum benefits.

It is estimated that 220,000 people would become eligible for increased benefits under this provision and \$14 in additional benefits would be paid in the first full year. Social Security program costs would be increased by about 0.1 percent of taxable payroll over the long range.

C. COVERAGE

Your committee's bill would extend mandatory social security coverage to some 6 million jobs in Federal civilian, State and local, and nonprofit organization employment. As a result, the social security program would cover about 97 percent of all jobs.

The social security program now covers about 90 percent of the jobs in paid employment. The largest group of jobs excluded from social security coverage is about 5.7 million jobs in public employment, most of which are covered under public staff-retirement systems. (About 2.4 million jobs out of 2.7 million jobs in Federal civilian employment are excluded from coverage. Out of 12.3 million jobs in State and local employment, about 3 million jobs are not covered but could be covered if the States elected coverage for these employees and 0.3 million

jobs are excluded from coverage.) In addition, some 210,000 jobs in employment for nonprofit organizations are not covered but could be covered if the nonprofit organizations elected to cover their employees. Most of the other jobs not covered represent irregular or part-time work.

Your committee notes that in extending coverage under the bill to Federal and State and local employment, some categories of such employment which are now specifically excluded from coverage by law such as services performed by inmates of Federal and State and local prisons, services performed by temporary, emergency workers, and services by student employees of Federal hospitals would no longer be excluded. Whether coverage should be extended to these specially excepted groups is a complex question which your Commission has not been able to resolve in the time available. However, since under the bill coverage would not be extended to Federal civilian, State and local, and nonprofit organization employment until 1982, your Committee will have time to closely examine the issues and recommend any changes in the coverage extension it believes appropriate.

The following specific coverage groups are added.

1. Federal civilian employees

Your committee's bill would extend social security coverage to the approximately 2.4 million Federal civilian employees now excluded. Most of these employees are covered under the civil service retirement (CSR) system; the remainder are covered largely under other staff retirement systems. The Social Security Act of 1935 excluded from coverage all civilian employment for the Federal Government or for an instrumentality of the United States. At that time, the Federal CSR system, which covered most Federal civilian employment, had been in existence for 15 years and there seemed to be no need for Federal employees to be covered under two retirement systems.

The Social Security Amendments of 1950, as part of a major expansion of the social security program, covered civilian employees of the Federal Government who were not covered under any Federal retirement system. (These employees were short-term Federal employees who were considered likely to shift between Federal and private employment.) The 1950 amendments specifically excluded from coverage services performed for the Federal Government by the President, the Vice President, Members of Congress, legislative employees of the Congress, inmates of Federal penal institutions, certain student employees of Federal hospitals, and temporary, emergency employees.

Your committee has been concerned for many years because the exclusion of most civilian employees of the Federal Government from social security coverage has resulted in two major problems, related mainly to the large number of workers who shift between Federal employment and work covered under social security. The first problem is that there are gaps in protection of workers who have worked both under the CRS system and social security; some employees only qualify for benefits under one system so that their benefits are not based on their lifetime earnings and contributions to both systems, while other employees fail to get benefits under either system. The second problem is that many employees who have worked under both systems are able to qualify for social security benefits by working for relatively

short periods in jobs covered under social security, and to also qualify for substantial CSR benefits.

These social security benefits generally are based on substantially less than a full lifetime of covered work and are heavily weighted and represent a very high return on the employee's contributions. This situation is unfair to all workers covered under social security and to their employers, who must bear the cost of the windfall benefits payable to Federal employees.

Over the years many studies of this situation have been made by the executive agencies that have responsibility for administering the social security and CSR systems and various proposals to remedy the situation have been considered. Your committee directed that such studies be made in 1960, 1965, and 1972. None of the proposals advanced has proved acceptable to all concerned. Most recently, the 1975 Advisory Council on Social Security recommended that the social security system be made applicable to virtually all gainful employment and that the Congress should develop immediately ways of achieving this.

Your committee believes that the best way to eliminate the problems that now occur because Federal civilian employment is not covered under social security would be to extend coverage to Federal civilian employees. It is recognized that the complex issue of how the CSR system (and other Federal staff-retirement systems) should be modified to take account of the social security coverage should be resolved before the coverage is made effective. Any modification to the Civil Service Retirement Act will have to be approved by the Committee on Post Office and Civil Service. Thus your committee has delayed the effective date until January 1982.

In addition, the bill provides for a comprehensive study of methods for coordinating the social security system and the civil service retirement system. The study, to be completed not later than January 1, 1980, would be made by the Secretary of Health, Education, and Welfare in consultation with the Civil Service Commission. The Secretary would be directed to present to Congress a specific and detailed plan for the coordination of the two systems. The plan would be expected to provide Federal employees and their families with the best possible combination of retirement, dependents, survivors, disability and health benefits under the two systems at the lowest possible cost consistent with the solvency of the systems. The Secretary is directed to include in the plan benefit provisions and other features to assure that Federal employees would not be placed at a disadvantage either in the coverage protection or in the contributions required of them by the integration of the systems. The date for completion of the study would allow 2 years before the integration takes place for the relevant committees of Congress to act on the plan.

2. State and local employees

Under present law, social security coverage for State and local employees is generally available only on a group basis through voluntary agreements between the States and the Secretary of Health, Education, and Welfare. Coverage for a group of State and local employees can be terminated after 2 years' advance notice by the State if the group has been covered under social security for 5 years at the time notice is given, or by the Secretary at any time if he finds that the State has

failed or is unable legally to comply with the terms of the agreement and 2 years' advance notice is given.

Your committee is concerned that, because many State and local employees are not covered currently under social security and those who are covered may have their coverage terminated, inequities in benefit protection have arisen, especially for workers who move between covered and noncovered jobs. In some cases such workers qualify for staff-retirement benefits but do not have enough coverage under social security to qualify for social security benefits and therefore their benefits in retirement do not reflect their lifetime earnings. In other cases such workers qualify for substantial staff-retirement benefits and also for relatively low, heavily weighted (windfall) social security benefits that represent a very high return on the worker's social security contributions. Payment of windfall social security benefits to State and local employees is financially disadvantageous to the social security trust funds and is unfair to other workers, who are covered compulsorily under the social security program.

Your committee is also aware that the provisions in present law not only provide special treatment for State and local employees in general, but also provide special treatment for particular kinds of State and local employees. For example, State and local employees compensated wholly on a fee basis and employees of certain transportation systems acquired by State and political subdivisions from private ownership are covered compulsorily under social security. On the other hand, some State and local employment is excluded from social security coverage: services of employees who are hired to relieve them from unemployment, services in a hospital or other institution by a patient or inmate, and services performed on a temporary basis in the event of an emergency.

Further, certain services performed by employees in a group for which coverage is provided may be excluded at the option of the State: services in elective, part-time, or fee-basis positions and services performed by election workers or officials who are paid less than \$50 in a calendar quarter. In addition, a number of provisions which apply only to employees in certain named States, or only to certain employees in a named State, have been enacted from time to time. Your committee believes that provisions for special treatment for certain State and local employees are unfair to other State and local employees and complicate administration of the social security program.

The 1975 Advisory Council on Social Security studied major areas of employment not covered under social security (including State and local employment) and urged that these areas be covered compulsorily. Also, in April 1976 your committee held hearings to explore the issues relating to the social security coverage and termination of coverage of employees of State and local governments. During the hearings a number of approaches to solving the problems that arise under the present State and local coverage provisions were discussed; compulsory coverage is the most satisfactory approach to those problems.

Compulsory coverage of State and local employment would fill the gaps in protection of those who move between noncovered State and local employment and work covered under social security. Contributions and benefits provided under staff-retirement systems for groups

not now covered under social security could be adjusted to take account of social security coverage and contributions. Coordinated coverage under social security and a staff-retirement system would assure that benefits under both systems would be reasonably related to a worker's lifetime earnings and contributions.

Some have argued that under recent opinions of the Supreme Court it would be unconstitutional to provide for mandatory taxation of the States and localities as employers. However, recent decisions have been limited to the commerce power and there is no controlling opinion on the exercise of the general welfare and taxation power. Your committee believes that there is a compelling national interest in universal coverage linked to the solvency of the social security system which is sufficient to sustain this legislation.

Your committee's bill would provide compulsory social security coverage effective January 1, 1982, for all State and local employees (including employees of Guam, American Samoa, and the District of Columbia) who are not covered compulsorily under present law.

The bill would also provide that coverage could not be terminated for a group of State and local employees unless the required 2 years' advance notice was filed before September 14, 1977. This would prevent terminations after September 1979; State and local employees whose coverage had been terminated would also be covered effective January 1, 1982.

Your committee bill also contains a number of provisions affecting coverage for State and local employees in particular States.

3. Employees of nonprofit organizations

Under present law, work performed for nonprofit religious, charitable, educational, or other tax-exempt organizations specified in section 501(c)(3) of the Internal Revenue Code is excluded from compulsory coverage under the Social Security Act. The exclusion was enacted because it was believed that taxation of the organizations under the Federal Insurance Contributions Act would endanger the traditional tax-exempt status of the organizations. Work performed for other nonprofit organizations, listed in section 501(c) of the Code, is covered compulsorily.

Social security coverage is available to employees of an organization described in section 501(c)(3) of the Code if the organization files with the Internal Revenue Service a certificate expressing its desire to have the coverage extended to its employees. Current employees of such an organization have a choice of whether or not they want to be covered under social security; future employees of such an organization are covered compulsorily. Under the present provisions, 90 percent of all employees of these organizations are covered under social security. Under the bill, work performed for an organization specified in section 501(c)(3) of the Code would be covered compulsorily under social security beginning January 1, 1982.

Your committee believes that the basis used in the past for excluding these nonprofit organizations from social security taxation is no longer valid and that compulsory coverage under social security would solve the problems, such as those discussed earlier with respect to State and local coverage, that result because some employees are not covered currently under social security and those who are covered may have

their coverage terminated. Compulsory coverage would prevent gaps in the protection of employees who have divided their working lifetimes between covered and noncovered employment, and would prevent employees whose major employment is not covered or is terminated from qualifying for windfall social security benefits by working for relatively short periods in covered jobs. Also, some organizations have reported their employees' wages for social security purposes and have paid social security taxes without filing the required certificate. Such organizations have filed for refunds of the erroneously paid taxes, and some employees who were relying on the social security protection were no longer covered. Although Public Law 94-563, enacted October 19, 1976, was designed to prevent the loss of social security coverage in these situations, compulsory coverage would eliminate the complex provisions and problems that now apply.

Under present law, an organization which filed a certificate can terminate coverage of its employees by giving 2 years' advance notice of the termination provided coverage has been in effect for at least 8 years. Also, the coverage can be terminated by the Secretary of the Treasury, with concurrence of the Secretary of Health, Education, and Welfare, at any time if he finds that an organization has failed to or is unable to comply with the law and 60 days' notice of the termination is given. Under the bill, no termination would be allowed before compulsory coverage was effective unless the notice to terminate was given on or before September 13, 1977. The bar to future terminations would prohibit nonprofit organizations from terminating social security coverage of their employees in order to avoid paying social security taxes for a period before compulsory coverage was effective.

4. Quarter-of-coverage provision for Federal, State and local service, and service for nonprofit organizations performed prior to effective date of coverage

Your committee is concerned over possible disadvantages arising out of the late entry into social security coverage of Federal civilian and State and local employees and employees of nonprofit organizations. If no special provision is made for these employees, many who retire, become disabled, or die within a few years of the time social security coverage is extended will not have worked long enough to qualify for social security benefits for themselves or their families even though they (and their employers) may have paid substantial social security contributions. Under social security law, in order to be insured for retirement and survivors benefits, an individual generally needs as many quarters of coverage (but no more than 40) as the number of years elapsing after 1950 (or age 21, if later) and up to the year of attainment of age 62 or death. In addition, a person is insured for survivors benefits if he has at least 6 quarters of coverage in the 13-quarter period ending with the quarter in which he died. In order to qualify for social security disability benefits, an individual needs as many quarters of coverage as the number of years elapsing after 1950 (or age 21, if later) and up to the year he becomes disabled. In addition, if he becomes disabled at age 31 or older he must have 20 quarters of coverage (5 years) in the 40-quarter period ending with the quarter in which he becomes disabled. Thus, for example, a Federal civilian employee who was 57 years old in 1982, when social

security coverage became effective, and who retired in 1985 at age 60, would have earned at most 16 quarters of coverage from his Federal employment—not enough to qualify for social security disability or retirement benefits.

In recognition of this problem, your committee's bill would provide that any employee in covered Federal, State and local, or nonprofit employment on or after January 1, 1982 (who also performed service as an employee in such employment before 1982), would be granted credits for quarters of coverage, but not for earnings for benefit computation purposes, with respect to such employment before 1982, provided the employee earned at least 6 quarters of coverage from such employment after December 31, 1981.

5. Totalization Agreements

Under present law, there is no authority in the Social Security Act for entering into agreements with other countries to provide for coordination between the social security systems of the United States and of other countries. Your committee is concerned that because there is no coordination between the U.S. social security system and foreign social security systems, two serious problems occur.

First, the work of many U.S. citizens employed by U.S. employers in foreign countries is subject to the social security taxes of the United States and is also subject to the social security taxes of the foreign country. Not only are the tax payments to foreign systems generally higher than in the United States but frequently American workers get little if any, return for the taxes they and their employers pay to the foreign systems because social security eligibility requirements are usually stricter under foreign systems.

Second, many U.S. citizens who divide their working careers between work covered under the U.S. social security system and work covered under a foreign social security system suffer a loss of continuity in their social security coverage. Some who work abroad for a number of years and have periods of coverage under two or more social security systems may not qualify for benefits under one or more countries when they retire, become disabled, or die. (For example, American workers who work abroad for a number of years may lose their U.S. security disability protection because to be insured for disability benefits they must generally have substantial recent covered work covered by the U.S. system.) Others may qualify for social security benefits but the social security benefits they receive are not related to their work lifetimes since not all their credits can be taken into account.

Your committee's bill would help solve these problems by authorizing the President to enter into bilateral agreements (of a kind generally known as totalization agreements) with foreign countries to provide for limited coordination between this country's social security system and those of other countries. Each agreement would be submitted to the Congress and could not go into effect until 90 days (in which the Congress has been in session) after the agreement had been submitted.

A totalization agreement would eliminate dual coverage and dual employee and employer social security taxes for the same work. An agreement could also provide that each country would take into

account a worker's total work and earnings in both countries for purposes of determining eligibility for and the amount of benefits. Each country would pay only a part of the totalized benefit; the amount of the benefits paid would be the proportion of the totalized benefit which is attributable to the covered work performed in the paying country. The United States would not pay a totalized benefit to a worker who had less than 6 quarters of coverage under the U.S. system. While totalization would improve protection for people who worked in both countries, in a large proportion of cases of the worker is insured based on his U.S. work alone, his regular social security benefits would be higher than his totalized benefit.

Totalization agreements (which are common among European countries) have an advantage over other approaches to coordination in that the agreements are designed to allow each cooperating country to carry out its responsibilities virtually independently. The countries would exchange information on covered earnings and earnings credits and provide other administrative assistance, but otherwise each country would make its determinations and computations independently and would pay benefits directly, without any need for an interchange of funds or balancing of amounts paid as benefits.

A number of countries, including Italy, West Germany, Switzerland, Canada, France, and Japan, have approached the United States about the possibility of concluding social security totalization agreements, and the Social Security Administration has had technical discussions with representatives of each of these countries except Japan. A draft totalization agreement between the United States and Italy was signed in 1973 and a draft totalization agreement between the United States and West Germany was signed in 1976, to signify only that the countries accepted the text of the agreement for purposes of seeking the approval of their national legislatures. Both Italy and Germany have enacted the agreement with the United States into their laws. The agreements cannot become effective until they are authorized for the United States as provided in the bill. Thus, the agreements with Italy and West Germany would have to be submitted to the Congress after enactment and await the 90 day review period before they could become effective.

6. Exclusion of limited partnership income

Under present law each partner's share of partnership income is includable in his net earnings from self-employment for social security purposes, irrespective of the nature of his membership in the partnership. Under the bill the distributive share of income or loss received by a limited partner from the trade or business of a limited partnership would be excluded from social security coverage. However, the exclusion from coverage would not extend to guaranteed payments (as described in section 707(c) of the Internal Revenue Code), such as salary and professional fees, received for services actually performed by the limited partner for the partnership. Distributive shares received as a general partner would continue to be covered. Also, if a person is both a limited partner and a general partner in the same partnership, the distributive share received as a general partner would continue to be covered under present law.

Your committee has become increasingly concerned about situations in which certain business organizations solicit investments in limited

partnerships as a means for an investor to become insured for social security benefits. In these situations the investor in the limited partnership performs no services for the partnership and the social security coverage which results is, in fact, based on income from an investment. This situation is of course inconsistent with the basic principle of the social security program that benefits are designed to partially replace lost earnings from work.

These advertisements and solicitations are directed mainly toward public employees whose employment is covered by public retirement systems and not by social security. Also, these advertisements frequently emphasize the point that those who invest an amount sufficient to realize an annual net income of \$400 or more (the minimum amount needed to receive social security credit in a year) will eventually gain a high return on their social security contributions. Many of those who invest in limited partnerships will qualify for minimum benefits, which are heavily weighted for the purpose of giving added protection for people who have worked under social security for many years with low earnings. The cost of paying these heavily weighted benefits to limited partners must, of course, be borne by all persons covered by the social security program. The advertising injures the social security program in the public view and causes resentment on the part of the vast majority of workers whose employment is compulsorily covered under social security, as well as those people without work income who would like to be able to become insured under the social security program but cannot afford to invest in limited partnerships.

7. Social security employer taxes on tips when deemed as wages for the Federal minimum wage

Under the Fair Labor Standards Act of 1938, an employer can pay an employee less than the Federal minimum wage by an amount equal to the tips received by the employee but not by more than 50 percent of the minimum wage. Since employers are exempt from paying the employers' share of social security taxes on tips received by their employees, employers do not pay this tax on the amounts of tips deemed to be wages for purposes of the Federal minimum wage. Under the bill, liability for the employers' share of social security taxes would be extended to any tips deemed to be wages under the Fair Labor Standards Act. Your committee believes that these employers should not receive an advantage over other employers whose employees do not receive tips, and who must pay the employers' share of the social security tax on the full amount of the minimum wage.

8. Clergymen

Under present law, the services which a clergyman (including a Christian Science practitioner) or member of a religious order who has not taken a vow of poverty[] performs in the exercise of his ministry are covered as self-employment for social security purposes beginning with 1968 unless he obtains an exemption from social security taxes (and coverage) by filing within a prescribed period (under section 1402(e) of the Internal Revenue Code of 1954) an application for exemption, together with a statement that he is conscientiously opposed to the acceptance (with respect to his services as a clergyman) of any public insurance such as social security. Any exemption received under present law is irrevocable.

Your committee's bill would permit a clergyman to revoke his exemption if application for such revocation was filed before he became entitled to social security retirement or disability benefits and no later than the due date of a Federal income tax return for his first taxable year beginning after the date of enactment of this bill. However, once revocation was made, he could not again file an application for exemption. Social security coverage for a clergyman who revoked his exemption would begin with his first taxable year ending on or after enactment or beginning after enactment (whichever is specified in the application) and would be effective for social security benefits payable for months in or after the calendar year in which the application is filed.

9. *Other State and local changes*

a. Validation of coverage for policemen and firemen in Illinois

Under present law, social security coverage is available, in certain jurisdictions specifically named in the law, to policemen and firemen who are in positions covered under a State or local retirement system on much the same basis as to other State and local government employees who are covered under retirement systems.

In the States not named in the law, policemen in positions under a retirement system cannot be covered. However, firemen in these States who are under a retirement system can be covered if special conditions in the Federal law are met. The Governor of the State must certify that the overall benefit protection of the group of firemen would be improved by extension of social security to the group; the coverage can then be extended by means of a referendum in which only firemen may vote.

Illinois is not one of the States listed in the law in which social security coverage may be extended to policemen and firemen who are in positions under a retirement system, nor has it taken the required action to cover firemen in such positions. However, for a number of years, Illinois has been reporting as covered under social security the earnings of some policemen and firemen who are covered under the Illinois Municipal Retirement Fund (IMRF).

Your committee's bill would deem services performed prior to December 31, 1977, by policemen and firemen in Illinois covered under the IMRF to be covered under social security if social security contributions had been timely paid with respect to the services and either there has been no refund of the contributions or such refund is repaid within 90 days of enactment. The erroneous coverage would not be validated for the services of policemen and firemen employed by a political subdivision which indicated that it did not wish such coverage to be validated.

b. Coverage of policemen and firemen in Mississippi

The bill would make applicable to the State of Mississippi the provision in the Social Security Act which makes social security coverage available, in certain jurisdictions specifically named in the law, to policemen and firemen who are in positions covered under a State or local retirement system, on much the same basis as to other persons under retirement systems. Under present law, the provision applies to 21 States, Puerto Rico, and to all interstate instrumentalities.

In Mississippi, and in other States not named in the law, social security coverage is not available to policemen who are in positions covered under a State or local retirement system. It is available for firemen under a retirement system in these States, but only if special conditions set forth in the Federal law are met. The Governor of the State must certify that the overall benefit protection of the group of firemen which would be brought under coverage would be improved by reason of the extension of coverage to the group, and coverage can be extended only by means of a referendum in which only firemen may vote. Your committee's bill would add Mississippi to the list of States which may make social security coverage available to policemen and firemen who are covered under a State or local retirement system.

c. Coverage of State and Local Employees in New Jersey Under the Divided Retirement System Procedure

The bill would make applicable to the State of New Jersey the provision in the Social Security Act which makes social security coverage available, in certain jurisdictions specifically named in the law, under the divided retirement system procedure. Under present law, social security coverage for employees of the States and their political subdivisions is available only through agreements between the Secretary of Health, Education, and Welfare and the individual States. Each State decides what groups of eligible employees will be covered, subject to provisions in the Federal law which assure retirement system members a voice in any decision to cover them under social security. Federal law provides two methods for covering members of State and local government retirement systems. Under the first method, the referendum procedure which is available to all States, coverage is extended to all present and future employees who are in positions under a retirement system if a majority of the eligible employees approve such coverage in a referendum vote.

Under the other method, the "divided retirement system" procedure, which is now applicable to 20 States specifically listed in the law and all interstate instrumentalities, coverage may be extended to only those present employees in positions under a retirement system who desire it, with all employees who subsequently enter or reenter positions under the retirement system being coverage automatically. Your committee's bill would add New Jersey to the list of States which may use the divided retirement system procedure.

Even though your committee is extending mandatory coverage to State and local employees in the future, this provision has been included in the bill to make it possible for those employees in New Jersey who wish to come in to the system to do so at an earlier time.

d. Coverage of employees under Wisconsin retirement system

Social security coverage for employees of the States and their political subdivisions in positions not under a retirement system was made available by legislation enacted in 1950 through agreements entered into between the Secretary of Health, Education, and Welfare and the individual States. In 1953, the Social Security Act was amended to provide that the agreement with the State of Wisconsin could be modified to apply to service performed by all employees in positions covered by the Wisconsin Retirement Fund.

Subsequent amendments to the Social Security Act enabled all States to provide coverage for employees of a State or political subdivision in positions under a retirement system, by either of two methods. Under one method, applicable to all States, coverage is extended to all present and future members of a retirement system if a majority of the eligible employees approve such coverage in a referendum vote. Under the other method, which is applicable to certain specified States, including Wisconsin, coverage may be extended to only those current members of a retirement system who desire it, with all future members of the retirement system being covered compulsorily.

The State of Wisconsin, using the exception enacted in 1953, provided coverage for employees in all positions under the Wisconsin Retirement Fund but utilized the special referendum procedure in providing coverage for the Milwaukee Teachers Retirement System and the State Teachers Retirement System. The State now proposes to merge the three retirement systems; the successor system would be known as the Wisconsin Retirement System.

Your committee's bill would provide that the special provision of the Social Security Act that pertains to the Wisconsin Retirement Fund would apply to any successor of that Fund. This change would assure continued social security protection for members of the Wisconsin Retirement System, that future members of the System would be covered under social security, and that a referendum would not be necessary each time a new group becomes a participant in the System.

D. EQUAL TREATMENT OF MEN AND WOMEN

1. *Equal rights*

The social security law contains a number of relatively minor provisions that are different for men and women. Your committee believes that these provisions should be changed to eliminate the gender-based distinctions and terminology and provide the same rights for men and women. To accomplish this it has included in its bill the following provisions, most of which have negligible costs. With the exceptions indicated below, these provisions would be effective with respect to benefits for months after December 1977.

a. *Father's benefits*

Benefits are provided by the present statute for a woman who has in her care a minor or disabled child (entitled to child's benefits) of her retired, disabled, or deceased husband, or deceased former husband. By virtue of a 1975 Supreme Court decision in *Weinberger v. Wiesenfeld* benefits are also provided for a similarly situated widowed father. (In *Wiesenfeld*, the Court ruled that benefits must be provided for a widower with an entitled child in his care on the same basis as they are provided for a widow with an entitled child in her care.) Also under the law, benefits are not provided for a father who has in his care an entitled child of his retired or disabled wife or deceased former wife.

Your committee's bill would provide benefits for men who were not covered by the Supreme Court decision—young husbands of retired or disabled workers, and surviving divorced husbands with an entitled minor or disabled child of the retired, disabled, or deceased worker in

their care. The bill would also change the statute to reflect the Supreme Court decision in *Weinberger v. Wiesenfeld*.

It is estimated that 2,000 husbands or surviving divorced husbands would become newly eligible for benefits or eligible for larger benefits on the effective date. An estimated \$2 million in additional benefits would be paid in the first full year of operation.

b. Benefits for divorced men

Present law provides benefits based on a former spouse's social security earnings record for an aged divorced wife and an aged or disabled surviving divorced wife but not for divorced men in like circumstances. The committee bill would provide such benefits for aged divorced husbands and aged or disabled surviving divorced husbands.

It is estimated that 2,000 people would become newly eligible for benefits or eligible for larger benefits on the effective date. An estimated \$3 million in additional benefits would be paid in the first full year of operation.

c. Remarriage of widowers before age 60

Present law provides that an aged or disabled widow (or surviving divorced wife) may qualify for widow's benefits if she "is not married" when she applies for benefits. For a widower (or surviving divorced husband), on the other hand, the requirement specifies that he may qualify for widower's benefits if he "has not remarried." As a result of this difference, a widower (or surviving divorced husband) cannot ever become entitled to widower's benefits based on his deceased wife's (or deceased former wife's) earnings if he has remarried before age 60, even if he is not married at age 60.

The committee bill would permit a widower (or surviving divorced husband) to obtain benefits based on his deceased wife's (or deceased former wife's) social security if he is not married at the time he applies for widower's benefits, as widows now can. This provision would be effective after December 1977. However, this provision will be superseded when another provision in your committee's bill to eliminate marriage or remarriage as a factor in terminating or reducing benefits becomes effective in 1979.

d. Transitional insured status

A 1965 amendment to the social security law made certain people who attained age 72 before 1969 eligible for benefits based on a shorter time in covered employment than would otherwise be required. Benefits were also provided for certain wives and widows who attained age 72 before 1969, but similar benefits were not provided for husbands or widowers.

Your committee's bill would provide such benefits for husbands and widowers under the same conditions as for wives and widows.

e. Benefits at age 72 for certain uninsured individuals

An amendment to the social security law enacted in 1966 made it possible for certain people who reach age 72 before 1968 to get special monthly cash payments (financed from general revenues) even though they have not worked in jobs covered by social security. The special payments can also be made to people who reach age 72 after 1967 and before 1972 if they have a specified amount of work under social security but not enough to qualify for regular retirement benefits.

When both members of a couple are receiving such payments, the husband receives a full benefit (now \$78.50) and the wife gets a benefit equal to one-half the husband's benefit (now \$39.30).

The committee bill would provide that when both members of a couple are receiving special age-72 payments, the total amount of the payments (\$117.80) to the couple would be divided equally between the two.

f. Benefits of spouses of childhood disability or disabled worker beneficiaries

When a childhood disability beneficiary (a retired, disabled, or deceased worker's child who has been disabled since before age 22) marries another person getting dependent's or survivor's benefits, and when a disabled worker marries a childhood disability beneficiary or a mother, surviving divorced mother, or father, neither's benefits are terminated by reason of the marriage. Subsequent treatment of the spouse's benefits if the childhood disability beneficiary or disabled worker beneficiary has medically recovered or engages in substantial work and has his or her disability benefits terminated varies depending on the sex of the disability beneficiary. If the disability beneficiary is a male, the benefits of his spouse end when his benefits end. If, on the other hand, the disability beneficiary is a female, the benefits of her spouse do not end when her benefits end.

Your committee has approved a change in the law under which this disparity in the rights of men and women would be removed. Specifically, the committee-approved bill provides that the benefits of the spouse of a female disability beneficiary would be terminated if she ceases to be disabled, as is now the case if the disability beneficiary is a male. The termination of benefits of the spouse of the disability beneficiary would be consistent with the treatment under present law accorded other dependent and survivor beneficiaries who remarry. However, under the provisions of the committee bill to eliminate marriage or remarriage as a factor in terminating or reducing benefits, which will take effect later than the equal rights provisions of the bill, spouses of disability beneficiaries whose benefits are terminated under this equal rights provision of the bill will be able to become reentitled to benefits.

g. Benefit rights of illegitimate children

Present law provides that a man's illegitimate child who cannot inherit from him under applicable State law relative to devolution of intestate personal property may nevertheless be deemed to be his child for purposes of receiving social security benefits under certain conditions. Certain of these provisions may also apply with respect to such a child of a woman, but certain others do not.

Since the child may become entitled to benefits on his mother's social security record under other provisions of the law, the lack of exactly the same provisions in the case of mothers has not resulted in a denial of benefits for the child.

Nevertheless, your committee believes that the law should be changed to avoid such a gender-based distinction. Accordingly, the committee bill would provide that an illegitimate child's status for purposes of entitlement to child's insurance benefits will be determined with re-

spect to the child's mother in the same way as it is now determined with respect to the child's father.

In addition, the committee bill would change the social security statute with respect to children of disabled workers to conform to a 1974 Supreme Court decision in *Jimenez v. Weinberger*. That decision provided that certain illegitimate children could get benefits based on a worker's earnings if the relationship and/or living with or support requirements in the law are met at the time the child applies for benefits instead of before the worker becomes disabled, as the statute provides. The committee bill makes a similar change with respect to children of retired workers.

h. Waiver of civil service survivors annuities

Generally, present law provides that if a civil service annuity based in part of military service performed before 1957 is payable to an individual, such service may not be used in determining eligibility for or the amount of such individual's social security benefit. An exception applies to a widow (or child), but not a widower, entitled to a civil service survivor's annuity based in whole or in part on pre-1957 military service. The widow (or child), but not a widower, may waive the right to the civil service survivor's annuity and receive credit for pre-1957 military service for purposes of determining eligibility for or the amount of social security survivor's benefits.

The committee believes that a widower, as well as a widow, should be permitted to waive payment of a civil service annuity attributable to credit for military service performed before 1957 in order to have the military service credited toward eligibility for or the amount of a social security benefit, and has made provision for such in the bill.

i. Crediting of self-employment income in community property States

Present law provides that all income from self-employment in a trade or business owned or operated by a married couple in a State in which community property statutes are in effect be deemed to be the husband's for social security purposes unless the wife exercises substantially all the management and control of the business, in which case all the self-employment income is treated as the wife's. In non-community property States, self-employment income of married couples is credited to the spouse who owns or is predominantly active in the business.

The committee bill would permit self-employment income of a married couple in a community property State to be credited for social security purposes to the spouse who exercises more management and control over the trade or business, with respect to taxable years after 1977. Where the husband and wife exercised the same amount of management and control the self-employment income would be divided equally between both the husband and wife.

2. Elimination of marriage or remarriage as a factor terminating or reducing benefits of certain beneficiaries

Present law provides, in general, that the marriage (or remarriage) of a worker's divorced or surviving spouse, parent, or child prevents or terminates entitlement to benefits based on the worker's social secu-

rity earnings record. For example, a widow who remarries before age 60 cannot get benefits based on her first husband's earnings as long as she is married. If she remarries after age 60, the benefits based on the first husband's social security are reduced or terminated; the widow gets either a wife's benefit based on her first husband's earnings (which is less than the widow's benefit she was getting) or a wife's benefit based on her current husband's earnings (if he is a beneficiary), whichever is higher. Benefits are not payable to divorced spouses and young surviving spouses who are remarried.

Your committee is especially concerned about the effect of these provisions on older surviving spouses (and divorced spouses). Accordingly, your committee has recommended changes in the law which would eliminate marriage or remarriage as a factor affecting entitlement to benefits or benefit amounts. Specifically, under your committee's bill, marriage or remarriage would not bar or terminate entitlement to benefits as a divorced spouse, surviving spouse (including those with an entitled child in their care), parent, or child, and remarriage would not cause any reduction in aged widow's or widower's insurance benefits. Also, the dependent's benefits of a person married to a disabled worker or an adult disabled since childhood would no longer be terminated under present law. An estimated \$1.4 billion in additional benefits would be paid in the first full calendar year 1980.

The amendments made by your committee would apply with respect to benefits for months after December 1978. People whose dependents' benefits were terminated because of marriage or remarriage (or because of the recovery of a previously disabled spouse) prior to January 1979 may again become entitled to such benefits thereafter upon application for reentitlement.

In the first full year of operation an estimated 670,000 people would be eligible for benefits that they would not get because of the provisions of present law. An estimated \$1.3 billion in additional benefits would be paid in the first full year.

3. Duration-of-marriage requirement for divorced women (and men)

In 1965, the Congress provided benefits for aged divorced wives and aged surviving divorced wives of retired, disabled, or deceased insured workers, subject to a 20-year duration-of-marriage requirement. In providing these benefits, your committee stated that the purpose of doing so was to:

... provide protection mainly for women who have spent their lives in marriages that are dissolved when they are far along in years—especially housewives who have not been able to work and earn social security benefit protection of their own—from loss of benefit rights through divorce.

Generally speaking, with a period of marriage considerably shorter than 20 years there is a greater likelihood that a divorced person will either qualify for benefits as a spouse in a second marriage or have earnings and qualify for benefits as a worker under social security. Your committee is concerned, however, that older divorced people married less than 20 years may nevertheless reach old age without any social security protection. Accordingly, your committee's bill would reduce from 20 years to 5 years the length of time a person must

have been married to a worker in order for benefits to be payable to an aged divorced spouse or surviving divorced spouse.

The amendment would be effective with respect to benefits for months after December 1978.

It is estimated that 70,000 people would become newly eligible for benefits or eligible for larger benefits on the effective date. An estimated \$160 million in additional benefits would be paid in the first full calendar year, 1980.

4. Study of proposals to eliminate dependency and sex discrimination

As discussed previously, your committee's bill contains amendments which would make a number of relatively minor social security provisions the same for men and women. However, there are a number of more broad-scale proposals for changing the social security program to take into account the changing role of women in society. Your committee is concerned that the social security program provide adequate protection in terms of the needs of today's society and that women, as well as men, be treated equitably under the program.

Therefore, your committee has directed the Secretary of Health, Education, and Welfare, in consultation with the Task Force on Sex Discrimination in the Department of Justice, to carry out a detailed study of proposals: (1) to eliminate dependency as a requirement for entitlement to social security spouse's benefits, and (2) to bring about the equal treatment of men and women in any and all respects. In conducting this study the Secretary shall take into account the effects of the changing role of women in today's society including such things as: (1) changes in the nature and extent of women's participation in the labor force, (2) the increasing divorce rate, and (3) the economic value of women's work in the home. The study shall include appropriate cost analyses. A full and complete report shall be submitted by the Secretary to the Congress within 6 months after enactment of the bill.

E. IMPROVEMENTS OF THE EARNINGS TEST

The earnings limitation or retirement test for social security beneficiaries continues to bother many Americans who believe that retirees should be encouraged to work rather than discouraged from working. Your committee has provided what it believes is the most liberal amendment possible, consistent with the fiscal condition of the old-age and survivors insurance system.

1. *Annual exempt amount.*—Under present law, if a beneficiary under age 72 earns more than the annual exempt amount (\$3,000 in 1977; more in subsequent years) in a year, \$1 less in benefits is paid for each \$2 of earnings in excess of the \$3,000. However, full benefits are paid, regardless of the amount of annual earnings, for any month in which the beneficiary neither works for wages in excess of the monthly measure (\$250 in 1977; more in later years) nor renders substantial services in self-employment. Under the bill, beginning in 1978, the annual exempt amount would be increased so that a beneficiary age 65 or over (but under age 72) would receive the full amount of his benefits each month if his annual earnings did not exceed \$4,000, and beginning in 1979, such a beneficiary would receive the full amount of his benefits each month if his annual earnings did not exceed \$4,500. Bene-

ficiaries under age 65 would continue to be subject to the annual exempt amount provided under present law. The provisions for the automatic adjustment of the annual exempt amount under present law would not be effective for beneficiaries age 65 or over (but under 72) for either 1978 or 1979.

2. *Monthly earnings test.*—The bill would change the retirement test so as to eliminate, for years after the initial year of retirement, the provision under present law that allows a beneficiary to receive full benefits for any month in which the beneficiary neither works for wages of more than the monthly measure nor renders substantial services in self-employment.

The present test, with a combined annual-monthly measure of earnings, creates an anomaly by permitting the payment of benefits in some situations where payment is difficult to justify. For example, a beneficiary who earns, say, \$20,000 a year and who works regularly throughout the year has all benefits withheld. A beneficiary who earns the same amount, but works only part of the year, say 8 months, can receive benefits for the remaining 4 months. Also, people who customarily work less than a full 12 months each year (for example, in seasonal employment) can, upon reaching the age of eligibility for benefits, receive some social security benefits during the year even though their work patterns have not changed and their annual earnings are substantial.

Your committee's bill would provide that the monthly measure would apply only in the initial year of retirement. This provision would assure that a beneficiary who retires after earning a substantial amount in the year of retirement would get benefits for the months in that year in which the beneficiary actually was retired.

3. *Foreign work test.*—The regular earnings-related retirement test is not a practical test for beneficiaries who work outside the United States in employment that is not covered by social security, primarily because of the wide variations in earnings levels in the many countries in which U.S. social security benefits are payable, the changing values of foreign currencies, and the administrative difficulties that a monthly earnings test would present in dealing with beneficiaries living abroad. For these beneficiaries, benefits are payable in full for any month in which a beneficiary works 6 or fewer calendar days, regardless of how many hours he works in these days and regardless of how much money he earns; he receives no benefits for any month in which he works in 7 or more calendar days.

Unless your committee's bill, benefits would not be payable for any month in which a beneficiary worked in 9 or more calendar days in 1978 and in 12 or more calendar days in 1979. Liberalization of the foreign work test is meant to allow beneficiaries who work outside the United States an increase in their earnings without losing benefits, just as the increased amount of the annual exempt amount for the regular retirement test allows beneficiaries in the United States to earn more without suffering deductions from their benefits.

F. ANNUAL WAGE REPORTING

Public Law 94-202, enacted January 2, 1976, made changes in the law to institute a single annual wage reporting system under which

forms W-2 will be used as the annual reports of wages for both social security and income tax purposes effective with reports of wages paid in 1978. Annual reporting will eliminate the quarterly reporting of a detailed listing of wages paid to each employee covered under social security. Employers will still have to file with the Internal Revenue Service quarterly reports which contain summary wage and tax liability information. State and local employment is excluded from the change to annual reporting.

The annual reporting provisions of Public Law 94-202 made no changes in the provisions of the Social Security Act which deal with the crediting of covered work on a quarterly basis. As a result, employers will have to include on forms W-2 data on wages paid the worker in each quarter so that the Social Security Administration can determine whether a worker has enough quarters of coverage to be eligible for benefits. Thus, the annual reporting provisions of present law do not provide the optimum advantages for employers or for the Government that annual reporting was intended to achieve because quarterly wage data will still need to be reported by employers and the data will have to be processed by the Social Security Administration.

Your committee's bill would change the provisions of the social security law which refer to, or are based on, the use of quarterly wage data, so that only annual data would be reported on the forms W-2. Under the bill, annual wage data would be substituted for quarterly wage data for automatically adjusting the contribution and benefit base and the retirement test exempt amount, as well as in computing the benefit reduction when a worker is entitled to workmen's compensation, in applying coverage tests to certain jobs, and in granting military service noncontributory wage credits.

The most significant program change would be a provision setting out how annual wages would be credited in terms of quarters of coverage. Under present law, a worker generally receives credit for a quarter of coverage for a calendar quarter in which he received at least \$50 in wages. Under the bill, a worker would receive one quarter of coverage (up to a total of four) for each \$250 of earnings in a quarter, and the \$250 measure would be increased automatically every year to take account of increases in average wages.

Your committee believes that because wage levels have advanced so tremendously since the \$50 measure was established in 1939, raising the measure to \$250 in this context would not make it more difficult for workers in general to secure social security credits. While there would be relatively few workers who would lose some quarters of coverage, over a working lifetime most would become insured anyway. On the other hand, some workers would get some additional quarters of coverage, but again most would have become insured anyway. The quarter-of-coverage measure was set at \$250, with annual automatic adjustments, in order to avoid significant increases in program costs.

G. OTHER PROVISIONS

1. Limit cost of living increases for early retirees

Your committee's bill would change the method of increasing reduced benefits after the initial month of entitlement. If an individual

elects to receive social security benefits before reaching age 65, the benefits are reduced to take into account, in general, the longer period for which benefits are to be received. Currently, benefits are reduced for the number of months from first entitlement to age 65. However, if benefits are subsequently increased, the increase is reduced for the number of months from the month of increase to age 65.

After age 65 there is no reduction in the increase. Thus, a person who started getting retirement benefits at age 62 (with a 20 percent actuarial reduction) gets benefit increases without reduction after age 65. In such cases, the cost-of-living increase in the individual's benefits will exceed the percentage increase necessary to maintain the purchasing power of his original reduced benefit amount.

Under your committee's bill subsequent benefit increases would be subject to the same reduction factor as that which was initially applied—from the month of initial entitlement to retirement age. As under current law, the reduction factor would be adjusted at age 65 (and also at age 62 for widows and widowers) to take account of prior months for which benefits were not payable. (Your committee's bill also contains a provision to prevent deliberation of benefits of individuals already receiving social security benefits.) Enactment of this legislation would reduce outlays by \$90 million in calendar year 1978 and \$280 million in calendar year 1979.

2. Limitation of retroactive benefits

Under present law, social security retirement benefits are payable to workers and their spouses as early as age 62, with the benefits paid before age 65 actuarially and permanently reduced so that, on the average, the beneficiaries will get the same amount of lifetime benefits that they would receive if their benefits began at age 65. Benefits payable as early as age 60 to widows and widowers are also actuarially and permanently reduced when benefits are received for months prior to age 65.

Under present law, a person who files an application after he is first eligible for benefits may be paid benefits, including actuarially reduced benefits, for a retroactive period of up to 12 months before the month in which the application is filed, if all conditions of eligibility are met for those months.

Under the bill, except in those cases where the benefits were disability-related or where unreduced dependents benefits were involved, monthly benefits would not be paid retroactively for months before the month in which the application was filed where such retroactivity would result in permanently reduced benefits.

Under present law, the applicant-beneficiary who is eligible for reduced benefits may be faced with options that are unclear and misleading to him, and which could make it difficult for him to decide whether or not to elect reduced benefits. For example, if a worker's monthly benefit amount were \$160 as of the month he attained age 65 and filed an application, his monthly benefit would be reduced to \$149.40—a permanent reduction of \$10.60 a month—if he chooses to take benefits for 12 months prior to the month he filed his application in order to get the one-time payment of \$1,792.80.

Your committee has been concerned about the high proportion of applicants in such situations who choose to receive a relatively high

one-time retroactive benefit payment, even though it means a permanent reduction in the monthly benefits they would get in the future. The retroactive payment is likely to be quickly used up, and, while some beneficiaries make up for the reduction in monthly benefits with supplemental security income (SSI) payments, many cannot qualify for these payments and their continuing income, on which they have to rely for the remainder of their lives, may be too small to provide for current needs. Under the change, this difficult choice would be removed and many older beneficiaries would have higher continuing incomes to meet their ongoing needs.

3. Early payment of social security and SSI benefit checks in certain situations

Under present law, social security benefit payments for a particular month are payable after the end of that month, and payment is normally made on the third day of the month; SSI benefit checks for a particular month are delivered on the first day of that month.

The bill would require that, when the delivery date for either payment falls on a Saturday, Sunday, or legal public holiday, the checks would be delivered on an earlier date.

The committee has been concerned that social security and SSI beneficiaries have to wait several days before they could get their benefit checks cashed in those instances where the delivery date fell on a Saturday, Sunday, or legal public holiday. Under the committee's bill, this situation would be alleviated.

Under the bill, if the usual delivery date for an SSI payment, for example, were September 1, and that date fell on a Monday that was a legal public holiday, the check would be paid on August 29. If the beneficiary were to die on, say, August 31, he would not be entitled to benefits for that month, and the check paid on August 29 would be erroneous. Your committee believes that any such erroneous payments that occur as a direct result of this provision should not be recovered. Therefore, the bill would provide that where an erroneous payment occurred under this provision, the erroneous payment would not be an overpayment, and therefore would not be recovered, if the event that caused the payment to be erroneous occurred after the check was delivered.

4. Relationship of the taxable earnings base under the railroad retirement program (Tier II) and the Pension Benefit Guaranty Corporation (PBGC).

The Railroad Retirement Act of 1974 restructured the railroad retirement program so that the benefits paid were divided into two parts—tier-I and tier-II. The tier-I benefit is essentially a social security benefit based on both railroad employment and non-railroad employment covered by social security. The benefit is financed out of a tax on employers and employees equal to the tax that would be paid under social security. Moreover, each time the social security tax base and tax rates are increased, an identical increase occurs in the railroad tier-I tax. Each year the tier-I taxes collected under the railroad program are transferred to the social security trust funds and the social security trust funds transfer to the railroad program the amount of social security benefits that would have been paid had railroad employment been covered under the social security program.

The tier-II benefit is an industry annuity program which is financed from a 9.5 percent tax on wages paid by employers without any contribution from employees. Both the amount of earnings taxed and the benefit paid are limited by the amount of earnings taxed under the social security program and rise as the social security tax base rises.

Although the tier II program is authorized by Federal law, financed by Federal taxes and administered by a Federal agency, the present program is the result of industry-wide negotiations between railway management and railway labor organizations. Your committee has been informed that railway labor and management are now engaged in industry-wide negotiations regarding wages, conditions of work and fringe benefits (including railroad retirement benefits), and that these negotiations could be prejudiced if the increases in the social security tax base included in the amendments reported by your committee were also to go into effect for purposes of tier-II of the Railroad Retirement Act. Your committee has no intention of affecting in any way these negotiations and the bill provides that the tier-II tax base and benefit computation base will be at the same levels they would have been under the automatic increase provision of the Social Security Act had your committee's bill not been enacted.

A somewhat similar situation exists with respect to the Pension Benefit Guaranty Corporation (PBGC) under the Employee Retirement Income Security Act of 1974 which provides for the insurance of pensions up to a certain maximum monthly amount. Initially, this was \$750. The intent was that this amount should be automatically adjusted annually to reflect increases in the general level of wages. The mechanism was to increase the amount according to the increases in the Social Security maximum taxable earnings base, which under present law rises in accordance with increases in the general level of earnings. However, the ad hoc increases in the earnings base in the bill would have the unintended effect of increasing the maximum amount of pension insured under ERISA more than was the intention of the initial legislation. Accordingly, your committee's bill would rectify this situation by a technical change, so as to maintain the original intent. This would be done by tying the indexing of the insured pension amount under ERISA to the current Social Security earnings base as it would increase under current law had your committee's bill not been enacted.

IV. ACTUARIAL COST ESTIMATES UNDER THE BILL

A. ACTUARIAL SOUNDNESS OF THE OASDHI SYSTEM

In order to determine the financial soundness of the OASDHI system over a long-range period, the concept of long-range actuarial balance has normally been used. The long-range actuarial balance for OASDI is the difference between the 75-year average OASDI tax rate and the 75-year average expenditures expressed as a percentage of taxable payroll. The long-range actuarial balance for HI is calculated in a similar fashion, but over a 25-year period. If the difference is positive (that is, if the average tax rate exceeds the average expenditures), the system is said to have an actuarial surplus; if it is negative, the

system is said to have an actuarial deficit. In addition, if that difference is less than 5 percent of the average expenditures, the system is said to be in close actuarial balance. In the past when there has been an actuarial imbalance (i.e., an actuarial deficit or actuarial surplus), the Congress has traditionally acted to revise either taxes or benefits, or both, so as to bring the program into close actuarial balance.

The provisions of the committee bill are summarized in the following section. The long-range cost of the OASDI system under the committee bill is estimated to be 13.42 percent of taxable payroll and the average OASDI tax rate is 11.73 percent which results in an "actuarial deficit" of 1.69 percent of taxable payroll. This is significantly lower than the deficit under present law of 8.20 percent of taxable payroll, but still outside the 5 percent limit of variation which is 0.67 percent of taxable payroll based on the estimated cost of 13.42 percent of taxable payroll.

The long-range cost of the HI system under the committee bill is estimated to be 3.53 percent of taxable payroll and the average HI tax rate is 2.69 percent. This results in a substantial "actuarial deficit" of 0.84 percent of taxable payroll, which is lower than the deficit under present law of 1.16 percent of taxable payroll, but still outside the 5 percent limit of variation for close actuarial balance, which is 0.18 percent of taxable payroll based on the estimated cost of 3.53 percent of taxable payroll.

B. ACTUARIAL COST ESTIMATES FOR THE OASDI SYSTEM

1. Effect of the bill on the actuarial balance of the OASDI system

From an actuarial cost standpoint, the major features of the bill are as follows:

a. Decoupling

Benefits are decoupled using a wage indexing procedure for those attaining age 62, dying or becoming disabled after 1978. For retirement cases, there would be a 10-year guarantee of the benefits that would result from the computation procedures in present law based on the benefit table in effect at the end of 1978.

b. Benefit level

The decoupling benefit formula would be designed to produce replacement rates that, on the average, are 5 percent lower than those projected under present law for the beginning of 1979.

c. Freezing the minimum benefit

The minimum PIA in the decoupling procedure would be frozen for all future years at the level shown in the benefit table in effect at the end of 1978.

d. Delayed retirement increment

Retirement benefits would be increased by 3 percent (instead of the 1 percent in present law) for every year that the beneficiary fails to receive benefits between ages 65 and 72.

e. Increase in retirement test

For beneficiaries aged 65 and over, the exempt amount in the earnings test would be increased to \$4,000 in 1978, to \$4,500 in 1979, and

(as in present law) would automatically increase thereafter. For beneficiaries under age 65, the exempt amount would remain as in present law. The monthly measure would be eliminated except in the year of retirement.

g. Elimination of remarriage terminations

Remarriage would not be a cause for precluding or terminating entitlement to benefits.

g. Elimination of windfall for early retirees

Future percent increases in benefits would be applied to the amounts being paid, rather than to PIA's.

h. Universal coverage

Effective in 1982, coverage would be extended on a compulsory basis to all Federal, State and local government employees and employees of nonprofit organizations.

i. Increase in the taxable wage base

The taxable wage base for employers, employees, and self-employed persons would be increased to \$19,900 in 1978; \$22,900 in 1979; \$25,900 in 1980; \$27,900 in 1981; and as in present law would automatically increase thereafter.

j. Increase in self-employed tax rate

Effective in 1981 the OASDI tax rate for self-employed persons would be equal to $1\frac{1}{2}$ times the rate for employees.

k. Tax rate increases

The tax rates would be increased as shown in tables 1 and 2.

TABLE 1.—CONTRIBUTION RATES FOR OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE UNDER PRESENT LAW AND UNDER THE COMMITTEE BILL

[In percent]

Calendar years	Employer and employee rate, each		Self-employed rate	
	Present law	Committee bill	Present law	Committee bill ¹
1977-----	4.95	4.95	7	7.00
1978-80-----	4.95	5.05	7	7.10
1981-84-----	4.95	5.15	7	7.70
1985-89-----	4.95	5.45	7	8.20
1990-2010-----	4.95	6.00	7	9.00
2011 and later-----	5.95	6.00	7	9.00

¹ Approximately $1\frac{1}{2}$ times the employee rate beginning in 1981.

TABLE 2.—CONTRIBUTION RATES FOR OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE UNDER THE BILL, SUBDIVIDED BY TRUST FUND

[In percent]

Calendar years	Employer and employee rate, each			Self-employed rate		
	OASI	DI	Total	OASI	DI	Total
1977-----	4.375	0.575	4.95	6.185	0.815	7.00
1978-----	4.275	.775	5.05	6.010	1.090	7.10
1979-80-----	4.300	.750	5.05	6.045	1.055	7.10
1981-84-----	4.350	.800	5.15	6.500	1.200	7.70
1985-89-----	4.550	.900	5.45	6.850	1.350	8.20
1990 and later-----	4.900	1.100	6.00	7.350	1.650	9.00

The changes in the medium-range and long-range actuarial balances of the system from the levels under present law to those under the bill are shown in tables 3 and 4.

TABLE 3.—CHANGES IN ACTUARIAL BALANCE OF THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE SYSTEM OVER THE MEDIUM-RANGE PERIOD (1977–2001) EXPRESSED AS PERCENT OF TAXABLE PAYROLL, BY TYPE OF CHANGE, PRESENT LAW AND THE BILL

[In percent]			
Item	OASI	DI	Total
Medium-range actuarial balance under present law	–1.45	–0.89	–2.34
Wage-indexing decoupling	.35	.19	.54
Benefit level	.26	.08	.33
Freezing the minimum benefit ¹	.03	.01	.04
Delayed retirement increment	–.04	0	–.04
Retirement test	–.05	0	–.05
Elimination of remarriage terminations	–.10	0	–.10
Elimination of windfall for early retirees	.13	0	.13
Universal coverage	.49	.07	.56
Miscellaneous provisions ²	0	0	0
Increase in the taxable wage base	.41	.08	.48
Increase in self-employed tax rates	.08	.01	.09
Tax rate increases	.75	.56	1.31
Total effect of changes in bill	2.29	1.00	3.29
Medium-range actuarial balance under bill	.84	.10	.95

¹ Includes updating the special minimum and increasing it automatically after 1979.

² Includes equal treatment by sex (without the effect of any dependency test or pension offset provisions), employer liability for taxes on minimum wage for employees receiving tips, correction of the flaw in present law regarding limited partnerships, elimination of retroactive payments of actuarially reduced benefits, reducing marriage requirements from 20 yr to 5 yr for certain divorced beneficiaries, and annual reporting of earnings.

NOTES

Expenditures and taxable payroll are calculated under the intermediate set of assumptions (alternative II) which are described in the 1977 Report of the Board of Trustees of the Federal old-age and survivors insurance and disability insurance trust funds. These assumptions incorporate ultimate annual increases of 5½ percent in average wages in covered employment and 4 percent in Consumer Price Index, an ultimate unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman. Taxable payroll is adjusted to take into account the lower contribution rates on self-employment income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.

Figures may not add due to rounding.

TABLE 4.—CHANGES IN ACTUARIAL BALANCE OF THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE SYSTEM OVER THE LONG-RANGE PERIOD (1977–2051) EXPRESSED AS PERCENT OF TAXABLE PAYROLL, BY TYPE OF CHANGE, PRESENT LAW AND THE BILL

[In percent]			
Item	OASI	DI	Total
Long-range actuarial balance under present law	–6.06	–2.14	–8.20
Wage-indexing decoupling	3.19	.95	4.14
Benefit level	.53	.12	.66
Freezing the minimum benefit ¹	.07	.02	.09
Delayed retirement increment	–.09	0	–.09
Retirement test	–.07	0	–.07
Elimination of remarriage terminations	–.08	0	–.08
Elimination of windfall for early retirees	.24	0	.24
Universal coverage	.29	.05	.34
Miscellaneous provisions ²	0	0	0
Increase in the taxable wage base	.36	.07	.43
Increase in self-employed tax rates	.09	.02	.11
Tax rate increases	.19	.56	.75
Total effect of changes in bill	4.73	1.78	6.51
Long-range actuarial balance under bill	–1.33	–.36	–1.69

¹ Includes updating the special minimum and increasing it automatically after 1979.

² Includes equal treatment by sex (without the effect of any dependency test or pension offset provisions), employer liability for taxes on minimum wage for employees receiving tips, correction of the flaw in present law regarding limited partnerships, elimination of retroactive payments of actuarially reduced benefits, reducing marriage requirements from 20 yr to 5 yr for certain divorced beneficiaries, and annual reporting of earnings.

NOTES

Expenditures and taxable payroll are calculated under the intermediate set of assumptions (alternative II) which are described in the 1977 Report of the Board of Trustees of the Federal old-age and survivors insurance and disability insurance trust funds. These assumptions incorporate ultimate annual increases of 5½ percent in average wages in covered employment and 4 percent in Consumer Price Index, an ultimate unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman. Taxable payroll is adjusted to take into account the lower contribution rates on self-employment income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.

Figures may not add due to rounding.

These medium-range and long-range estimates are based on the assumption that average earnings will increase after 1982 at an annual rate of $5\frac{3}{4}$ percent, and that the CPI will increase at 4 percent per year. Somewhat higher increases were assumed in the early years.

2. Income and outgo in near future for the OASDI system

Tables 5 through 7 show the progress of the OASI, DI, and the combined OASDI trust funds under present law in the past and under the bill in the future.

TABLE 5.—OPERATIONS OF THE OLD-AGE AND SURVIVORS INSURANCE TRUST FUND, CALENDAR YEARS 1972-87
(Amounts in billions)

Calendar year	Income	Disbursements	Net increase in fund	Funds at end of year	Fund at beginning of year as a percentage of disbursements during year	Fund at end of year as a percentage of disbursements during year
1972-----	\$40.1	\$38.5	\$1.5	\$35.3	88%	92%
1973-----	48.3	47.2	1.2	36.5	75	77
1974-----	54.7	53.4	1.3	37.8	68	71
1975-----	59.6	60.4	-.8	37.0	63	61
1976-----	66.3	67.9	-1.6	35.4	54	52
Estimated future experience:						
1977-----	72.5	75.6	-3.1	32.3	47	43
1978-----	80.6	83.6	-3.1	29.3	39	35
1979-----	90.8	92.7	-1.9	27.4	32	30
1980-----	100.8	101.3	-.4	26.9	27	27
1981-----	110.7	109.9	.8	27.8	25	25
1982-----	129.4	118.5	10.9	38.7	23	33
1983-----	140.5	127.5	12.9	51.6	30	40
1984-----	150.7	137.5	13.3	64.9	38	47
1985-----	168.2	148.3	19.9	84.8	44	57
1986-----	181.3	159.7	21.6	106.4	53	67
1987-----	194.4	171.9	22.5	128.8	62	75

TABLE 6.—OPERATIONS OF THE DISABILITY INSURANCE TRUST FUND, CALENDAR YEARS 1972-87
(Amounts in billions)

Calendar year	Income	Disbursements	Net increase in fund	Fund at end of year	Fund at beginning of year as a percentage of disbursements during year	Fund at end of year as a percentage of disbursements during year
1972-----	\$5.6	\$4.8	\$0.8	\$7.5	140%	157%
1973-----	6.4	6.0	.5	7.9	125	133
1974-----	7.4	7.2	.2	8.1	110	113
1975-----	8.0	8.3	-.8	7.4	92	84
1976-----	8.8	10.4	-1.6	5.7	71	55
Estimated future experience:						
1977-----	9.6	12.0	-2.4	3.3	48	27
1978-----	14.2	13.7	.5	3.8	24	28
1979-----	15.9	15.3	.6	4.4	25	29
1980-----	17.6	17.1	.5	4.9	26	28
1981-----	20.3	19.0	1.4	6.2	26	33
1982-----	24.0	20.9	3.1	9.3	30	45
1983-----	26.1	23.0	3.1	12.4	40	54
1984-----	28.0	25.3	2.6	15.0	49	59
1985-----	33.3	27.9	5.4	20.4	54	73
1986-----	36.2	30.7	5.5	25.9	66	84
1987-----	38.8	33.7	5.2	31.0	77	92

TABLE 7.—OPERATIONS OF THE OLD-AGE AND SURVIVORS INSURANCE AND THE DISABILITY INSURANCE TRUST FUNDS, COMBINED, CALENDAR YEARS 1972-87

[Amounts in billions]

Calendar year	Income	Disbursements	Net increase in funds	Funds at end of year	Funds at beginning of year as a percentage of disbursements during year	Funds at end of year as a percentage of disbursements during year
1972.....	\$45.6	\$43.3	\$2.3	\$42.8	93%	99%
1973.....	54.8	53.1	1.6	44.4	80	84
1974.....	62.1	60.6	1.5	45.9	73	76
1975.....	67.6	69.2	-1.5	44.3	66	64
1976.....	75.0	78.2	-3.2	41.1	57	53
Estimated future experience:						
1977.....	82.1	87.6	-5.5	35.6	47	41
1978.....	94.7	97.3	-2.5	33.1	37	34
1979.....	106.7	108.0	-1.3	31.7	31	29
1980.....	118.5	118.4	.1	31.8	27	27
1981.....	131.0	128.9	2.2	34.0	25	26
1982.....	153.4	139.4	14.0	48.0	24	34
1983.....	166.5	150.5	16.0	64.0	32	42
1984.....	178.7	162.8	15.9	79.8	39	49
1985.....	201.5	176.2	25.3	105.1	45	60
1986.....	217.4	190.4	27.1	132.2	55	69
1987.....	233.2	205.6	27.6	159.8	64	78

3. Increases in OASDI benefit disbursements and contribution income in 1978-87

The increases in the total benefit disbursements and contributions income of the old-age, survivors, and disability insurance system in calendar years 1978-87, as a result of the changes in the bill, are shown in tables 8 and 9.

TABLE 8.—ESTIMATED AMOUNT OF ADDITIONAL OASDI BENEFIT PAYMENTS IN CALENDAR YEARS 1978-87 UNDER THE PROVISIONS IN THE BILL

[In billions]

Calendar year	Additional benefits		
	OASI	DI	OASDI
1978.....	-\$0.4	(1)	-\$0.4
1979.....	.7	(1)	.7
1980.....	.7	-\$0.2	.5
1981.....	.5	-.4	(1)
1982.....	.1	-.8	-.6
1983.....	-.3	-1.1	-1.4
1984.....	-.7	-1.4	-2.1
1985.....	-1.1	-1.8	-2.9
1986.....	-1.6	-2.2	-3.7
1987.....	-2.0	-2.7	-4.6

1 Less than \$50,000,000.

TABLE 9.—ADDITIONAL CONTRIBUTION INCOME RESULTING FROM THE COMMITTEE BILL IN CALENDAR YEARS 1978-83, BY PROVISION
[In billions]

Calendar year	Increase in contribution and benefit base	Reallocation of tax rates between OASDI and HI	Increase in OASDI self-employment tax rate to 1½ times employee rate	Increase in tax rates	Subtotal, excluding universal coverage	Additional amount due to universal coverage	Total additional amount ¹
OASDI:							
1978	\$2.3	\$1.7			\$4.0		\$4.0
1979	4.6	2.0			6.6		6.7
1980	6.3	2.3			8.5		8.6
1981	7.0	1.3	\$0.1	\$3.4	11.8		11.9
1982	7.5	1.3	.4	4.0	13.2	\$11.7	25.0
1983	7.9	1.4	.4	4.3	14.0	14.2	28.3
HI:							
1978	.5	-1.7			-1.2		-1.2
1979	1.0	-2.0			-1.0		-1.0
1980	1.4	-2.3			-.9		-.9
1981	1.8	-1.3			.5		.5
1982	2.0	-1.3			.7	3.0	3.7
1983	2.1	-1.4			.7	3.6	4.3
Total:							
1978	2.8				2.8		2.8
1979	5.6				5.6		5.6
1980	7.6				7.6		7.7
1981	8.8		.1	3.4	12.3		12.3
1982	9.5		.4	4.0	13.9	14.7	28.7
1983	10.0		.4	4.3	14.7	17.8	32.6

¹ Includes relatively small amounts of additional taxes payable by employers on employees' income from tips.

4. Long-range OASDI cost projections

Table 9 shows the long-range cost estimates of the OASDI system as modified by the bill and as compared with the taxes provided.

TABLE 10.—ESTIMATED EXPENDITURES OF OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE SYSTEM AS PER CENT OF TAXABLE PAYROLL UNDER THE BILL, FOR SELECTED YEARS 1977-2055
[In percent]

Calendar year	Expenditures as percent of taxable payroll ¹					Difference
	Old-age and survivors insurance	Disability insurance	Total	Tax rate in bill		
1977/	9.39	1.50	10.89	9.90		-0.99
1978	9.05	1.48	10.52	10.10		-.42
1979	8.91	1.47	10.38	10.10		-.28
1980	8.74	1.48	10.22	10.10		-.19
1981	8.72	1.51	10.22	10.30		.01
1982	7.99	1.41	9.40	10.30		.93
1983	8.05	1.45	9.50	10.30		.80
1984	8.12	1.50	9.62	10.30		.69
1985	8.20	1.55	9.75	10.90		1.14
1986	8.27	1.59	9.86	10.90		1.01
1987	8.34	1.63	9.97	10.90		.93
1988	8.36	1.69	10.05	10.90		.86
1989	8.37	1.75	10.12	10.90		.72
1990	8.38	1.81	10.19	12.00		1.88
1991	8.38	1.86	10.24	12.00		1.70
1992	8.39	1.90	10.29	12.00		1.78
1993	8.39	1.95	10.34	12.00		1.60
1994	8.41	2.00	10.40	12.00		1.65
1995	8.42	2.05	10.47	12.00		1.58
1996	8.41	2.10	10.51	12.00		1.43
1997	8.40	2.16	10.56	12.00		1.44
1998	8.40	2.21	10.62	12.00		1.35
1999	8.41	2.27	10.68	12.00		1.33
2000	8.42	2.32	10.74	12.00		1.26
2001	8.45	2.38	10.83	12.00		1.12
2005	8.57	2.62	11.19	12.00		.88
2010	9.21	2.77	11.98	12.00		.01
2015	10.40	2.96	13.36	12.00		-1.32
2020	11.94	2.99	14.93	12.00		-2.96
2025	13.45	2.88	16.33	12.00		-4.37
2030	14.31	2.75	17.06	12.00		-5.08
2035	14.41	2.67	17.08	12.00		-5.06

TABLE 10.—ESTIMATED EXPENDITURES OF OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE SYSTEM AS PERCENT OF TAXABLE PAYROLL UNDER THE BILL, FOR SELECTED YEARS 1977-2055—Continued

[In percent]

Calendar year	Expenditures as percent of taxable payroll ¹			Tax rate in bill	Difference
	Old-age and survivors insurance	Disability insurance	Total		
2040	13.94	2.69	16.62	12.00	-4.62
2045	13.47	2.76	16.23	12.00	-4.23
2050	13.32	2.79	16.11	12.00	-4.11
2055	13.38	2.80	16.18	12.00	-4.18
25-yr averages:					
1977-2001	8.45	1.80	10.25	11.20	.9
2002-26	10.52	2.82	13.34	12.00	-1.35
2027-51	13.89	2.74	16.63	12.00	-4.63
75-yr average: 1977-2051	10.96	2.46	13.42	11.73	-1.69

¹ Expenditures and taxable payroll are calculated under the intermediate set of assumptions (alternative II) which are described in the 1977 Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds. These assumptions incorporate ultimate annual increases of 5¼ percent in average wages in covered employment and 4 percent in Consumer Price Index, an ultimate unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman. Taxable payroll is adjusted to take into account the lower contributions rates on self-employment income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.

It may be noted from table 9 that the OASDI tax rates scheduled in the committee's bill would exceed the yearly costs for at least the next 30 years. Under the proposed tax schedule there would be a significant accumulation of trust funds as may be observed from table 10. However, due to the projected long-range actuarial imbalance, the trust funds are eventually exhausted. This is projected to occur around the year 2009 for the disability insurance program and around the year 2029 for the old-age and survivors insurance program.

TABLE 11.—TRUST FUND RATIOS: FUNDS AT BEGINNING AND END OF YEAR AS A PERCENTAGE OF DISBURSEMENTS DURING YEAR

[In percent]

Calendar year	Funds at beginning of year as a percentage of disbursements during year			Funds at end of year as a percentage of disbursements during year		
	OASI	DI	Total	OASI	DI	Total
1977	47	48	47	43	27	41
1978	39	24	37	35	28	34
1979	32	25	31	30	29	29
1980	27	26	27	27	28	27
1981	25	26	25	25	33	26
1982	23	30	24	33	45	34
1983	30	40	32	40	54	42
1984	38	49	39	47	59	49
1985	44	54	45	57	73	60
1986	53	66	55	67	84	69
1987	62	77	64	75	92	78
1988	71	84	73	84	95	86
1989	79	87	80	93	95	93
1990	88	87	87	111	115	112
1991	104	106	105	129	132	130
1992	121	121	121	147	145	146
1993	138	133	137	164	156	163
1994	154	143	152	182	163	178
1995	171	150	166	199	167	193
1996	187	153	181	217	168	207
1997	204	154	194	235	167	221
1998	221	153	207	253	163	234
1999	238	149	219	271	156	246
2000	255	143	230	288	148	258
2001	270	135	240	305	136	268
2005	328	84	271	365	73	296
2010	364	(¹)	² 278	394	(¹)	² 297
2015	339	(¹)	² 238	355	(¹)	² 244
2020	257	(¹)	² 157	256	(¹)	² 147
2025	138	(¹)	² 44	119	(¹)	² 19
2030	(³)	(¹)	² -91	(³)	(¹)	² -128

¹ Fund exhausted in 2009.² Figures are theoretical because it is estimated that the disability trust fund will be exhausted in 2009.³ Fund exhausted in 2029.

C. BASIC ASSUMPTIONS FOR COST ESTIMATES FOR OLD-AGE, SURVIVORS, AND
DISABILITY INSURANCE SYSTEM

1. *General basis for long-range cost estimates*

The long-range estimates for the old-age, survivors, and disability insurance program presented in this report are based on the assumption that average earnings in covered employment will increase after 1982 at an annual rate of $5\frac{3}{4}$ percent. Similarly, the assumption has been made that the CPI will increase at an annual rate of 4 percent. Higher increases for both earnings and CPI are assumed for the yearly years. These assumptions yield, over the long-range, an implied increase in real earnings of $13\frac{1}{4}$ percent per year, which is based on the actual average experience of the last 25 years (estimated at about 1.7 percent per year based on annual averages for the period 1956-76), although recent experience has been much lower (about 1.1 percent in the last 15 years and 0.5 percent in the last 10 years based on annual averages).

The estimates reflect the effects under present law and under the system as it would be modified by the committee bill of various changes assumed to occur as a result of the automatic provisions. Table 11 summarizes those changes.

TABLE 12.—ASSUMED FUTURE CHANGES RESULTING FROM AUTOMATIC PROVISIONS UNDER PRESENT LAW AND UNDER THE COMMITTEE BILL

Calendar year	General benefit increase ¹ (percent)	Contribution and benefit base		Annual exempt amount under the retirement test	
		Present law ²	Committee bill ³	Present law	Committee bill ⁴
1977.....	5.9	\$16,500	\$16,500	\$3,000	\$3,000
1978.....	5.5	17,700	19,900	3,240	4,000
1979.....	5.2	18,900	22,900	3,480	4,500
1980.....	5.0	20,400	25,900	3,720	4,920
1981.....	4.2	21,900	27,900	3,960	5,280

¹ Under present law, applies to both persons eligible for benefits at the time of the benefit increase and to persons becoming eligible for benefits thereafter. Under the Committee bill, applies only to persons eligible for benefits as of the time of the benefit increase, for years after 1978.

² Under present law, the contribution and benefit base for each year is determined under the automatic increase provisions of the law.

³ Under the Committee bill, the increases in the contribution and benefit base in each year 1978-81 are ad hoc increases. For years after 1981, the base is determined under the automatic increase provisions of the law.

⁴ The higher exempt amounts under the Committee bill apply only to those beneficiaries subject to the retirement test who are aged 65 and over. The exempt amounts that are provided under present law would continue to apply to beneficiaries who are under age 65.

It should be observed that the assumptions of constant annual increases in the CPI were not adopted because it was felt that these increases would remain constant in the future. These assumptions are intended to represent average increases over the long-range future, with the increases being higher in some years and lower in others.

The long-range cost projections are based on assumptions that are intended to represent close to full employment (average unemployment is assumed at 5 percent of the labor force).

The long-range cost estimates presented in this report were prepared for a 75-year period. A valuation period of this length has been selected because it approximates the life span of the current working population.

2. Measurement of costs in relation to taxable payroll

Long-range costs included in this report are expressed as a percentage of taxable payroll. This measure is used because it is directly comparable to the combined employer-employee tax rate. Because of this characteristic the adequacy of any tax schedule can be readily determined and new tax schedules can be readily designed to meet the cost of the program.

D. ACTUARIAL COST ESTIMATES FOR THE HI SYSTEM

1. Effect of the bill on the actuarial balance of the HI system

From an actuarial cost standpoint, the major features of the bill that affect the HI system are as follows:

a. Universal coverage

Effective in 1982, coverage would be extended on a compulsory basis to all Federal, State, and local government employees and employees of non-profit organizations.

b. Increase in the taxable wage base

The taxable wage base for employers, employees, and self-employed persons would be increased to \$19,000 in 1978; \$22,900 in 1979; \$25,900 in 1980; and \$27,900 in 1981. As in present law, the wage base would increase automatically thereafter.

c. Tax rate decreases

The tax rates would be decreased, as shown in table 12.

The changes in the actuarial balance of the HI system, from a deficit of 1.16 percent of taxable payroll under present law to a deficit of 0.84 percent under the bill, are shown in table 13.

2. Short-range estimates of the income and outgo of the HI system

Table 14 shows the progress of the HI trust fund under present law in the past and under the bill in the future.

3. Long-range estimates for the HI system.

The adequacy of a schedule of contribution rates to support the HI system is measured by comparing on a year-to-year basis the tax rates with the corresponding total costs of the program, expressed as percentages of taxable payroll. The total cost of the program in any year essentially is the combined employer-employee contribution rate that will be sufficient to (a) provide the benefit payments and administrative expenses for the year for insured beneficiaries and (b) build the trust fund to the level of a year's disbursements and maintain it at that level. If the tax rate and the total cost (expressed as a percentage of taxable payroll) are exactly equal in each year of the 25-year pro-

jection period and all projection assumptions are realized, tax revenues along with interest income will be sufficient to provide for benefits and administrative expenses for insured persons and to build the trust fund gradually to the level of a year's outgo by the end of the period. To the extent that small differences between the yearly costs of the program and the corresponding tax rates occur for short periods of time and are offset by subsequent differences in the reverse direction, adequate financing will have been provided.

Table 15 shows the long-range cost estimates of the HI system as modified by the bill and as compared with the taxes provided. As indicated in this table, the HI tax rates scheduled in the bill would be less than the total costs in nearly every year of the 25-year projection period. Under the proposed tax schedule, the assets in the trust fund decline as a percentage of a year's outgo from a level of 77 percent at the beginning of 1976 to a level of approximately 50 percent during the mid-1980's. As shown in table 16, the assets in the trust fund decline very rapidly in the late 1980's, with the fund projected to be exhausted completely in 1991.

TABLE 13.—CONTRIBUTION RATES FOR HOSPITAL INSURANCE UNDER BILL, AS COMPARED WITH THOSE UNDER PRESENT LAW

	[In percent]	
	Employer, employee, and self-employed rate, each	
	Present law	Bill
Calendar year:		
1977.....	0.90	0.90
1978.....	1.10	1.00
1979-80.....	1.10	1.00
1981-84.....	1.35	1.30
1985.....	1.35	1.30
1986-2001.....	1.50	1.45

TABLE 14.—*Changes in actuarial balance of the hospital insurance system expressed as percent of taxable payroll, by type of change, present law and the bill*

Item	Percent
Actuarial balance under present law.....	-1.16
Universal coverage.....	+ .24
Increase in wage base for employers.....	+ .10
Increase in wage base for employees and self-employed persons.....	+ .09
Revised tax schedule.....	- .11
Total effect of changes in bill.....	+ .32
Actuarial balance under bill.....	- .84

NOTE.—Expenditures and taxable payroll are calculated under the intermediate set of assumptions (alternative II) which is described in the 1977 Report of the Board of Trustees of the Federal Hospital Insurance Trust Fund. These assumptions incorporate ultimate annual increases of 5½ percent in average wages in covered employment and 4 percent in Consumer Price Index, an ultimate unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman. Taxable payroll is adjusted to take into account the lower contribution rate on self-employment income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.

TABLE 15.—PROGRESS OF THE SOCIAL SECURITY HOSPITAL INSURANCE TRUST FUND UNDER BILL,
CALENDAR YEARS 1972-87

[Amounts in billions]

Calendar year:	Income	Disbursements	Net increase in fund	Fund at end of period	Fund at beginning of year as a percentage of disbursements during year
1972-----	\$6.4	\$6.5	—\$0.1	\$2.9	47%
1973-----	10.8	7.3	3.5	6.5	40
1974-----	12.0	9.4	2.7	9.1	69
1975-----	13.0	11.6	1.4	10.5	79
1976-----	13.8	13.7	.1	10.6	77
Estimated future experience:					
1977-----	16.1	16.2	— .1	10.5	66
1978-----	19.7	19.0	.6	11.1	55
1979-----	22.3	22.2	.1	11.2	50
1980-----	24.5	25.7	—1.2	10.0	44
1981-----	33.5	29.7	3.8	13.8	34
1982-----	39.7	33.9	5.8	19.6	41
1983-----	43.1	38.5	4.6	24.2	51
1984-----	46.1	43.7	2.4	26.6	55
1985-----	49.0	49.2	— .1	26.5	54
1986-----	57.5	55.0	2.5	29.0	48
1987-----	61.7	61.4	.3	29.4	47

Note: Figures may not add due to rounding.

TABLE 16.—ESTIMATED COST OF HOSPITAL INSURANCE SYSTEM AS PERCENT OF TAXABLE PAYROLL UNDER
THE BILL, FOR CALENDAR YEARS 1977-2001

[In percent]

Calendar year:	Expenditures under the program ¹	Trust fund building and Maintenance ²	Total cost of the program	Tax rate in bill ³	Difference
1977-----	1.99	0.15	2.14	1.80	—0.34
1978-----	2.04	.15	2.19	2.00	— .19
1979-----	2.13	.14	2.27	2.00	— .27
1980-----	2.22	.13	2.35	2.00	— .35
1981-----	2.36	.12	2.48	2.60	.12
1982-----	2.29	.12	2.41	2.60	.19
1983-----	2.44	.12	2.56	2.60	.04
1984-----	2.60	.11	2.71	2.60	— .11
1985-----	2.75	.11	2.86	2.60	— .26
1986-----	2.89	.11	3.00	2.90	— .10
1987-----	3.03	.11	3.14	2.90	— .24
1988-----	3.17	.11	3.38	2.90	— .38
1989-----	3.33	.10	3.43	2.90	— .53
1990-----	3.49	.10	3.59	2.90	— .69
1991-----	3.65	.10	3.75	2.90	— .85
1992-----	3.80	.10	3.90	2.90	—1.00
1993-----	3.97	.10	4.07	2.90	—1.17
1994-----	4.13	.10	4.23	2.90	—1.33
1995-----	4.30	.09	4.39	2.90	—1.49
1996-----	4.43	.09	4.52	2.90	—1.62
1997-----	4.57	.09	4.66	2.90	—1.76
1998-----	4.71	.09	4.80	2.90	—1.90
1999-----	4.85	.09	4.94	2.90	—2.04
2000-----	5.01	.09	5.10	2.90	—2.20
2001-----	5.16	.09	5.25	2.90	—2.35
Average ⁴ -----	3.42	.11	3.53	2.69	— .84

¹ Ratio of benefit payments and administrative expenses for insured beneficiaries to taxable payroll. Taxable payroll is adjusted to take into account the lower contribution rates on self-employment income, on tips, and on multiple-employer "excess wages."

² Allowance for building the trust fund balance to the level of a year's outgo and maintaining it at that level, after accounting for the offsetting effects of interest earnings.

³ Rate for employers and employees, combined.

⁴ Average for the 25-yr period 1977-2001.

TABLE 17.—*HI trust ratios: fund at beginning of year as a percentage of disbursements during year*

Calendar year:	Fund at beginning of year as a percentage of disbursement during year
1977	66
1978	55
1979	50
1980	44
1981	34
1982	41
1983	51
1984	55
1985	54
1986	48
1987	47
1988	43
1989	34
1990	22
1991	7
1992 and later	(¹)

¹ Trust fund exhausted in 1992.

V. SECTION-BY-SECTION ANALYSIS OF THE BILL

TITLE I—PROVISIONS TO IMPROVE THE FINANCING OF THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

Section 101. Adjustments in tax rates

Section 101 of the bill provides for shifting to the OASDI program 0.10 percent of the 0.2 percent tax rate increase already scheduled in present law for 1978–80 for the health insurance program, and restoring 0.05 percent of the shift in 1981 and after for increasing tax rates for employees and employers, each by 0.15 percent, 0.30 percent, and 0.55 percent, in 1981, 1985, and 1990, respectively, and for restoring the OASDI tax rate for the self-employed to 1½ times the employee tax rate.

Old-age, survivors, and disability insurance tax rates

Section 101(a) of the bill amends sections 3101(a), 3111(a) and 1401(a) of the Internal Revenue Code of 1954 to provide a new schedules of old-age, survivors, and disability insurance tax rates for employees, employers, and the self-employed.

Subsection (a) of the amended section 3101 and subsection (a) of the amended section 3111 provide new schedules of tax rates on wages for purposes of old-age, survivors, and disability insurance. Under present law, these tax rates for employees and employers, each, are as follows:

Calendar years:	Percent
1977–2010	4.95
2011 and after	5.95

Under the bill, the tax rates on wages for both employees and employers for old-age, survivors, and disability insurance are as follows:

Calendar years:	Percent
1977	4.95
1978 to 1980	5.05
1981 to 1984	5.15
1985 to 1989	5.45
1990 and after	6.0

Subsection (a) of the amended section 1401 provides new schedules of tax rates for self-employment income for purposes of old-age, survivors, and disability insurance. Under present law, the OASDI tax rate for the self-employed is 7 percent for all taxable years beginning after 1972.

Under the bill, the tax rates in self-employment income for old-age, survivors, and disability insurance are as follows:

Taxable years beginning after:	Percent
1972 (and before 1978) -----	7.00
1977 (and before 1981) -----	7.10
1980 (and before 1985) -----	7.70
1984 to 1989 -----	8.20

Hospital insurance rates

Section 101(b) of the bill amends sections 3101(b), 3111(b), and 1401(b) of the Code to provide new schedules of hospital insurance tax rates for employees, employers, and the self-employed.

Subsection (b) of the amended section 3101 and subsection (b) of the amended section 3111 provide new schedules of tax rates on wages for purposes of hospital insurance. Under present law, these tax rates are as follows:

Calendar years:	Percent
1977 -----	0.90
1978-80 -----	1.10
1981-85 -----	1.35
1986 and after -----	1.50

Under the bill, the tax rates on wages for employees and employers, each, for hospital insurance are as follows:

Calendar years:	Percent
1977 -----	0.90
1978-80 -----	1.00
1981-85 -----	1.30
1986 and after -----	1.45

Subsection (b) of the amended section 1401 provides a new schedule of tax rates on self-employment income for purposes of hospital insurance.

Under present law, these tax rates are as follows:

Taxable years beginning after:	Percent
1973 (and before 1978) -----	0.90
1977 (and before 1981) -----	1.10
1980 (and before 1986) -----	1.35
1985 -----	1.50

Under the bill, the tax rates on self-employment income for hospital insurance are as follows:

Taxable years beginning after:	Percent
1973 (and before 1978) -----	0.90
1977 (and before 1981) -----	1.00
1980 (and before 1987) -----	1.30
1985 -----	1.45

Section 102. Allocations to disability insurance trust fund

Section 102(a) (1) of the bill amends section 201(b) (1) of the Social Security Act which deals with the amount to be allocated and appro-

priated to the Federal Disability Insurance Trust Fund each year with respect to wages. Under present law, the amounts so allocated and appropriated with respect to wages paid are as follows:

Calendar year:	Percent
1977 -----	1. 150
1978-80 -----	1. 200
1981-85 -----	1. 300
1986-2010 -----	1. 400
2011 and after -----	1. 700

Under the amended section 201(b) (1), the amount so allocated and appropriated will be as follows:

Calendar years:	Percent
1977 -----	1. 150
1978 -----	1. 550
1979-80 -----	1. 500
1981-84 -----	1. 600
1985-89 -----	1. 800
1990 and after -----	2. 200

Section 102(a) (2) of the bill amends section 201(b) (2) of the Act, which deals with the amount to be allocated and appropriated to the Federal Disability Insurance Trust Fund each year with respect to self-employment income. Under present law the amounts so allocated and appropriated with respect to any self-employment income reported for a taxable year are as follows:

Taxable years beginning after:	Percent
1973 (and before 1978) -----	0. 815
1977 (and before 1981) -----	. 850
1980 (and before 1986) -----	. 920
1985 (and before 2011) -----	. 990
2010 -----	1. 000

Under the amended section 201(b) (2), the amounts so allocated and appropriated will be as follows:

Taxable years beginning after:	Percent
1973 (and before 1978) -----	0. 815
1977 (and before 1979) -----	1. 090
1978 (and before 1981) -----	1. 055
1980 (and before 1985) -----	1. 200
1984 (and before 1990) -----	1. 350
1989 -----	1. 650

Section 103(a) (1) of the bill amends section 230(a) of the Act to provide that the Secretary will publish the *ad hoc* increases in the contribution and benefit base provided in subsection (c) in the Federal Register on or before November 1 of the year before the year they are to be effective. This change is needed because the *ad hoc* base increases for 1978-1981 are considered to be determined under subsection (b) as though they were automatic increases.

Section 103(a) (2) of the bill amends section 230(b) of the Act to take account of the *ad hoc* base increases provided in subsection (c).

Section 103(b) of the bill amends section 230(c) of the Act to provide for *ad hoc* increases in the base applicable to employees, employers, and the self employed to \$19,900 in 1978, \$22,900 in 1979, \$25,900 in 1980, and \$27,000 in 1981. For years after 1981, the base will

be automatically adjusted as under present law with the 1981 base to be used as the starting point for computing subsequent bases under this section. For purposes of computing tier II pensions under the Railroad Retirement Act of 1974 the contribution and benefit base will be the contribution and benefit base in effect as if this act had not been enacted.

Section 103(c)(1) provides that the contribution and benefit base determined under section 230 of the Act to compute the monthly insurance benefits guaranteed by the Pension Benefit Guaranty Corporation under P.L. 93-406 (ERISA) shall be the contribution and benefit base in effect as if this Act had not been enacted.

Section 103(d) of the bill amends section 215(i)(2)(D) of the Act to specify how the amounts to be included on the last line of Columns III and IV in the benefit table will be determined when the table is extended to reflect new AME levels possible under a new contribution and benefit base and the new base is not divisible by 12.

Section 104. Standby guarantee of trust fund levels

Section 104 of the bill provides standby authority for automatic loans from the general revenues of the Government to the social security trust funds whenever the assets of the old-age and survivors insurance or disability insurance trust fund at the end of any calendar year after 1977 are below 25 percent of the total outgo from that fund during that year. The section also provides for repayment of any such loan or loans and temporary tax-rate increases to provide funds to repay the loans.

Section 104(a) of the bill amends section 201 of the Act by adding a new subsection (j) which provides, in paragraph (1) thereof, that if at the close of any calendar year after 1977 the balance remaining in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund (as determined by the Secretary of the Treasury in the following February) is less than 25 percent of the total amount of the expenditures made from such fund under Title II of the Act during that calendar year, there is automatically appropriated to the Secretary of the Treasury for loan to such fund as of the following July 1 an amount equal to the difference between such balance and 27½ percent of such total amount.

Paragraph 2 of the new subsection (j) provides that if at the close of any calendar year succeeding a year for which a loan was made under paragraph (1), (A) the balance remaining in the fund (as determined by the Secretary of the Treasury in the following February) is less than 35 percent of the amount of expenditures made from such fund during such succeeding year, and (B) the outstanding balance of all loans (including interest) which were made to the fund with respect to years before such succeeding year is \$2 billion or more, the tax rates set by sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 (self-employment, employee and employer rates, respectively) will be increased as provided in section 3125 of the Code (provided by section 104(b) of the bill, described below) in the second calendar year after such succeeding year.

Paragraph (3) of the new subsection (j) provides that any amount appropriated for loans to either the old-age and survivors insurance or disability insurance trust fund with respect to any calendar year

under paragraph (1) shall be repaid, with interest, by transfer from such fund to the general fund of the Treasury as follows: A repayment shall be made on July 1 next succeeding any subsequent calendar year at the close of which (as determined by the Secretary of the Treasury in the following February) the balance remaining in such funds exceeds 30 percent of the total amount of the expenditures made from such fund under Title II of the Social Security Act during that calendar year; the amount of the repayment will be equal to the difference between (A) such balance, and (B) 30 percent of the total amount of such expenditures.

Paragraph (a) also provides that interest on loans made under paragraph (1) shall be at a rate, as determined by the Secretary of the Treasury, equal to the average market yield on the outstanding marketable obligations of the United States of comparable maturities at the time the loan was made.

Section 104(b) of the bill amends chapter 21 of the Internal Revenue Code of 1954 by redesignating sections 3125 and 3126 as sections 3126 and 3127, respectively, and by adding a new section 3125 which provides that whenever an appropriation has been made under the new section 201(j) (1) for loans to the old-age and survivors insurance or disability insurance trust fund, and the new section 201(j) (2) applies with respect to a succeeding calendar year, as described above, the tax rate for employees and employers, each, which would otherwise be in effect (under sections 3101(a) and 3111(a) of the Code) with respect to wages received or paid in the 2nd calendar year after such succeeding year will be increased by 0.10 percent and the tax rate for the self-employed which would otherwise be in effect (under section 1401(a) of the Code) with respect to taxable years beginning in the second year after such succeeding year, will be increased by 0.15 percent.

Section 104(b) of the bill also amends the table of sections of Chapter 21 of the Code to take account of the redesignated and new sections, and amends section 1401(a) of the Code (as amended by section 101(a) (3) of the bill), and sections 3101(a) and 3111(a) of the Code (as amended by sections 101(a) (1) and (2) of the bill) to add appropriate conforming references to the new section 3125.

Section 105. Effective date

Section 105 of the bill provides that the amendments made by sections 101, 102, and 103 are to apply with respect to remuneration paid or received after 1977 and to taxable years beginning after 1977. Section 105 further provides that the amendments made by section 104 shall apply with respect to calendar years after 1977.

TITLE II—STABILIZATION OF REPLACEMENT RATES IN THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

General

Section 201 of the bill amends section 215 of the Social Security Act to provide a new method for calculating a worker's average earnings for benefit purposes and for determining primary insurance amounts (PIA's). This section also provides for a transition from the present to the new system in the case of workers reaching age 62 in the first

10 years under the new system and makes other benefit adjustments. Section 201 of the bill specifically provides for:

1. A new benefit formula for computing the PIA of workers who become eligible for old-age insurance benefits, become disabled, or die after 1978, which would be automatically updated to future changes in average wages;

2. Application of the new PIA formula to earnings that are indexed to take account of changes in average wage levels during the workers' lifetimes;

3. A transitional provision that guarantees workers who become age 62 in the period 1979-1988 that their retirement benefits will be no less than the amount derived from the table in the law in December 1978 with cost-of-living increases beginning only with eligibility (age 62);

4. A restatement of recomputation provisions (largely similar to present law) for workers who reach age 62, become disabled, or die after 1978;

5. An increase in the special minimum to a maximum of \$230 (instead of \$180 as under present law) and future automatic cost-of-living adjustments in special minimum PIA's; and

6. A regular minimum benefit frozen at the level under present law as of implementation (about \$121 in January 1979) with cost-of-living increases beginning with the year the worker reaches age 62, becomes disabled, or dies.

Computation of primary insurance amount

Section 201(a) of the bill provides a new section 215(a) of the Act. Paragraph (1) of the new section 215(a) provides for the basic PIA computation.

Subparagraphs (A) and (B) of the new section 215(a) (1) provide a formula for computing PIA's based on average indexed monthly earnings (AIME) and for automatically adjusting the formula in the future to increases in average wages in the economy. Subparagraph (A) of the new section 215(a) (1) specifies that factors in the new formula will be 90 percent for the lower part of the worker's AIME, 32 percent of the next higher portion of AIME, and 15 percent of remaining additional AIME. (These percentage factors will not be subject to automatic change in the future.) Subparagraph (A) further provides that the PIA will be the sum of the application of these percentages to the appropriate portions of AIME, rounded up (if necessary) to the next higher multiple of \$0.10 and increased under the automatic cost-of-living adjustment provisions.

Subparagraph (B) of the new section 215(a) (1) specifies the AIME levels to which the percentage factors in the formula would apply for 1979 and to whom the formula applies. For people who reach age 62, become disabled, or die in 1979, the formula will be: 90 percent of the first \$180 of AIME, plus 32 percent of AIME above \$180 but not above \$1085, plus 15 percent of AIME above \$1085. For those who reach age 62, become disabled, or die in each year after 1979, the 1979 amounts (\$180 and \$1085) will be automatically adjusted to wages by multiplying them by the ratio of: Average wages for the second

year before the year for which the determination is made to average wages in 1977. The resulting amounts (formula brackets) will be rounded to the nearest \$1, (or to the new higher \$1, if an exact multiple of \$0.50 but not of \$1). Thus, in computing a worker's PIA, the formula that applies is the one determined for the earliest of the year of eligibility for old-age benefits (age 62), onset of disability, or death.

For purposes of subparagraph (B), average wages means the average of total annual wages (as reported to the Secretary of the Treasury) as defined in the regulations of the Secretary (of HEW) and without regard to the contribution and benefit base limitation. (It is anticipated that, pursuant to regulations, Forms 1040 for 1977 and 1978 will be used in determining average wages for those years, and Forms W-2 for 1978 and later years will be used in determining average wages for years after 1978. The data will, beginning in 1977, include the reports of wages for employment both covered and not covered under the Act, and will include wages in excess of the contribution and benefit base.)

Subparagraph (C) of the new section 215(a)(1) provides that no PIA as computed under the new formula will be less than the greater of (1) the minimum PIA in the benefit table in the law in effect in December 1978, and rounded (if necessary) to the next multiple of \$1.00; or (2) the "special minimum" PIA. The minimum PIA will not be automatically adjusted to increases in the Consumer Price Index (CPI) as provided under subsection (i) until a worker reaches age 62, becomes disabled, or dies. This subparagraph also provides that, for 1979, the special minimum will equal \$11.50 times the number of a worker's years of coverage over 10 and up to (and including) 30. The special minimum will be automatically adjusted to increases in the CPI as provided under subsection (i) as amended by this bill for years after 1978. (Under present law, the dollar amount used to compute a special minimum benefit has been \$9.00 since the 1973 amendments.)

The new subparagraph (C) also restates the present-law definition of a year of coverage (the total number of which cannot exceed 30) for purposes of computing a special minimum benefit. The number of years of coverage for 1937-50 is determined by dividing total wages credited for that period by \$900 disregarding any fraction. The resultant number cannot exceed 14. The number of years of coverage after 1950 (excluding years wholly within a period of disability) is the number of years in which earnings equal no less than 25 percent of the contribution and benefit base in effect in each year.

For 1977, the base is \$16,500 and 25 percent of the base is \$4125. To maintain the present measure of a year of coverage in relation to average wages, a new provision is added under which for purposes of the special minimum provision the base for years after 1977 will be limited to the amount that would be in effect for those years if present law remained in effect without change.

Subparagraph (D) of the new section 215(a)(1) specifies that in each year after 1978, the Secretary is to publish by November 1 the benefit formula applicable for the following calendar year and the average wages on which the formula is based. The formula for a

given year will be applicable to those who reach age 62, have an onset of disability, or die in that year. The Secretary is also required to publish by November 1979, average wages for each year after 1950.

Paragraph (2) of the new section 215(a) provides for exceptions to the basic PIA computation outlined in paragraph (1) in certain cases involving disability insurance benefits.

Subparagraph (A) of the new section 215(a)(2) provides that where a worker was entitled to disability benefits in any of the 12 months before he reaches age 62, has a new onset of disability or dies, the year he reaches age 62, has the new onset of disability or dies will not count as a year of eligibility for purposes of sections 215(a), (b), and (i) as amended by this Act. In such cases, the year of eligibility will be the year of onset of the prior disability.

Subparagraph (B) of the new section 215(a)(2) provides that where a worker was entitled to disability benefits in any of the 12 months before he became entitled to a retirement benefit, reentitled to a disability benefit, or died, the PIA will equal the greater of: (1) The previous disability PIA increased by any intervening automatic and *ad hoc* benefit increases, (2) the minimum benefit, or (3) the special minimum benefit. The effect of this subparagraph is to provide for conversions from the disability to the retirement rolls at age 65 and to avoid providing a new, later, indexing year (or a wage-indexing computation, if the previous computation was made under the law in effect prior to 1978) in cases where an individual has been off the benefit rolls for only a short time before becoming reentitled to benefits.

Subparagraph (C) of the new section 215(a)(2) provides that when a PIA is computed after a previous disability entitlement has terminated, the PIA can be no lower than the disability PIA that was most recently determined (including automatic benefit increases up to the month of termination).

Paragraph (3) of the new section 215(a) specifies the (prospective) applicability of the new PIA computation method provided in paragraph (1) of the new section 215(a).

Subparagraph (A) of the new section 215(a)(3) specifies that the new computations provided in the paragraph (1) of the new section 215(a), except for the special minimum benefit computation, are applicable only to workers who had not attained age 62 prior to January 1979 and who became eligible for old-age or disability insurance benefits or die in or after January 1979. It also provides certain exceptions by reference to paragraph (4) (which relates to certain previously disabled workers and to the transitional provision).

Subparagraph (B) of the new section 215(a)(3) provides that unless fewer than 12 months have elapsed since the termination of a prior period of disability, a person will be deemed "eligible" (1) for old-age insurance benefits as of the month in which he attains age 62, or (2) for disability insurance benefits as of the month the period of disability began as provided under section 216(i)(2)(C) of the Act. (As specified in paragraph (2), a person who had a prior period of disability which terminated within 12 months will be deemed eligible as of the month the prior period of disability began.)

Paragraph (4) of the new section 215(a) excludes certain workers disabled before 1979 from the new PIA computation provisions

(except those relating to the special minimum benefit) and contains transitional provisions protecting benefit amounts for workers reaching age 62 after 1978 and before 1989 (the transitional "guarantee").

Subparagraph (A) of the new section 215(a)(4) excludes from the new computations, (except for the special minimum benefit computation provided in subparagraph (C)(i)(II) a worker disabled before 1979, unless at least 12 months elapse after the termination of the prior period of disability and before the month he attains age 62, becomes disabled again, or dies.

Transitional provision

Subparagraph (B) contains the transitional provisions and provides that the new computations (except for the special minimum computation) will not apply to a worker who otherwise would qualify for those computations if the present law PIA computed under subsections 215(a) or (d) as in effect in December 1978 is greater.

The transitional provisions apply to workers who reach age 62 after 1978 and before 1989. They also will apply to a small number of workers who have an onset of disability, or die after 1978 if their benefit computation includes earnings after 1936 and before 1951. In determining whether the present-law benefit is greater, the benefit table as in effect in December 1978 will apply with no cost-of-living increases added to the benefit after 1978 and before the year the worker reaches age 62, becomes disabled, or dies as provided in subsection (i)(2)(A)(iii). Also, in such cases, earnings beginning with the year of age 62, disability onset or death will be excluded in computing the average monthly wage on which the benefits are based.

New section 215(a)(5) provides that in computing PIA's after December 1978 for workers who reach age 62, become disabled, or die before 1979 and therefore do not qualify for the new benefit formula or the transitional provisions, the provisions for determining the PIA in effect in December 1978 will apply except that effective for January 1979, the dollar amount used to compute a special minimum benefit will be \$11.50. Also, for years after 1978, the PIA's and maximum family benefits for such workers will be increased by general ad hoc benefit increases and by automatic benefit increases (as provided by subsection (i)).

Computation of average indexed monthly earnings (AIME)

Section 201(b) of the bill provides a new section 215(b) of the Social Security Act for computing average indexed monthly earnings. The method of computing average earnings is generally the same as that used under present law except that indexed, rather than actual earnings, are used. New section 215(b)(1) provides that an individual's average indexed monthly under subsection (a)(1)(B)) wages and self-employment income in his benefit computation years (as determined under paragraph (2)) by the number of months in those years.

New section 215(b)(2)(A) provides that the number of worker's benefit computation years—the number of years used in computing AIME—equals the number of elapsed years minus 5, but in no case can the number of such years be less than 2.

Clause (i) of section 215(b)(2)(B) defines benefit computation years as the computation base years that are equal to the number of elapsed years and in which the total of indexed wages and self-employment income is the highest.

Clause (ii) defines computation base years as years after 1950 and up to: (1) The year the first month of entitlement to old-age insurance benefits occurred or (2) if the worker died without becoming entitled to a benefit the year after the year of death. Years wholly within a period of disability are excluded from computation base years.

Clause (iii) defines elapsed years as the number of years after 1950, or age 21, if later, and up to the year of death or age 62 (but not less than 5 if the year of age 62 is used). Any part of a year included in a period of disability is not counted as an elapsed year. This definition applies in all cases except under the special provision in section 104(j)(2) of the Social Security Amendments of 1972, which applies to men who reach age 62 in 1973 and 1974.

New section 215(b)(3)(A) provides that, except as specified in paragraph (B), the wages or self-employment income credited to each of a worker's computation base years will be indexed by multiplying the wages or self-employment income by the ratio of: (1) Average wages for the indexing year to (2) average wages for the year being indexed. The indexing year is the second year after 1976 and before the year of the worker's initial eligibility for old-age or disability insurance benefits (age 62 or onset of disability), or death, whichever is earliest. However, a year will not be counted as the year of the worker's eligibility or death if the worker was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month he attained age 62, had an onset of disability or died.

For purposes of this subparagraph (as for purposes of section 215(a)(1)(B)), average wages means the average of total annual wages (as reported to the Secretary of the Treasury) as defined in regulations of the Secretary (of HEW) and without regard to the contribution and benefit base limitation.

New section 215(b)(3)(B) provides that wages and self-employment income credited to an individual in all years that occur after the indexing year are counted in actual dollar amounts for purposes of computing AIME.

New section 215(b)(4) provides that for purposes of computing average monthly wages after 1978 under the provisions of the law in effect in December 1978 for a worker to whom the transitional guarantee provisions in subsection (a)(4) apply, computation base years include only years after 1950 (or 1936, if applicable) and up to the year of attainment of age 62, onset of disability, or death. Wages and self-employment income in years after those events cannot be used in a "guarantee" computation. As under present law, calendar years wholly within a period of disability also cannot be computation base years for purposes of a "guarantee" computation.

Benefit table applicable to workers eligible before 1979

New section 215(c) specifies that subsection (c) as in effect in December 1978 will remain in effect for workers who attain age 62, become disabled, or die before 1979. That is, the benefit table in effect in

December 1978, plus all subsequent cost-of-living increases under subsection (i) will apply to such workers.

Section 201(d) of the bill amends section 215(d) of the Social Security Act to provide a simplified method for computing the PIA's of workers age 21 after 1936 and before 1951 when wages before 1951 are included in the computations so that machine, rather than manual, procedures can be used in making such computations. The revised method of computing the PIA under new section 215(d) (1) is as follows: The average monthly wage of workers age 21 after 1936 and before 1951 is to be determined over the same period of years and in the same manner as provided under the law in effect in December 1977. However, the total wages paid to such workers prior to 1951 will for purposes of benefit computation years and computation base years be deemed to have been paid at an equal yearly rate up to \$3000 a year (the maximum amount creditable before 1951) for years after age 21 and before the earlier of 1951 or the year of death; the remainder (I) if less than \$3000, is deemed credited to the year preceding the year of age 21 or (II) if \$3000 or more, is deemed credited in \$3000 increments to the year of age 21 and to each year consecutively preceding that year with any remainder credited to the year immediately preceding the earliest year to which \$3000 was credited. For purposes of this subsection, total wages may not exceed \$42,000.

A new formula is provided for determining the PIA's which results in a PIA approximately equivalent to the amount that would result if actual yearly wages were used in the computation. The formula for determining the PIA is: 40 percent of the first \$50 of average monthly wages (AMW) as computed under this subsection, plus 10 percent of the next \$200 of AMW, increased by 1 percent for each increment year. The number of increment years used will not be less than 4 nor more than 14; the number is determined by dividing an individual's total wages before 1951 by \$1650. (Under present law, an "increment" is the term used to describe the 1-percent increase in the primary insurance benefit that is given for each year before 1951 in which the worker was paid \$200 or more; the maximum possible is 14—the number of years in the period 1937–50.)

Section 201(d) (3) of the bill amends section 215(d) (3) of the Act to delete the requirement that when wages prior to 1951 are included in computing the AMW of an individual who attains age 21 after 1936 and prior to 1951, the present law computation provisions in effect before the Social Security Amendments of 1967 must be used.

Section 201(d) (4) of the bill amends section 215(d) of the Act to add a new paragraph 4 which provides that when wages prior to 1951 are included in the computation, the present-law simplified method for computing PIA's of workers age 22 in or before 1937 remains in effect for workers who reach age 62, become disabled, or die before 1978.

References to average indexed monthly earnings

Section 201(e) of the bill amends section 215(e) of the Act, which specifies the maximum amounts of covered wages and self-employment income that can be used for purposes of computing PIA's to refer to AIME in addition to AMW, where appropriate.

Recomputations

Section 201(f) of the bill provides a new section 215(f)(2) for recomputing PIA's. The provisions for recomputing PIA's are largely the same as those in present law.

New section 215(f)(2)(A) provides that the Secretary at times prescribed in regulations, will recompute the PIA's of individuals who have covered wages or self-employment income after 1978 and who are entitled to an old-age or disability insurance benefit.

New section 215(f)(2)(B) provides that for recomputations of PIA's based on AIME, the benefit formula applied will be the one used in computing the worker's initial PIA (or for those to whom the transitional provisions apply as described in subsection (a)(4)(B)), the one that would have been used in computing the initial PIA if the "guarantee" PIA had not been higher.

New section 215(f)(2)(C) provides that as under present law, the number of computation base years are expanded to include years of additional earnings.

New section 215(f)(2)(D) provides that as under present law, a recomputation to take account of a year of additional earnings will be effective with January of the following year, or in a death case, with the month of death.

Section 201(f)(2) of the bill repeals section 215(f)(3) of the Act since it is obsolete. Paragraph (3) provides for recomputing PIA's for workers who had self-employment income in 1952 and applied for benefits or died prior to 1961.

New section 215(f)(4) provides that a recomputation will be effective only if it results in an increase in the PIA of at least \$1. Section 201(f)(4) of the bill adds new paragraphs (7) and (8) to section 215(f) of the Act. New paragraph (7) provides that present law recomputation provisions will continue to apply for workers who become eligible for old-age benefits, have an onset of disability, or die before 1978. However, for an individual whose PIA is computed under the transitional provisions, earnings in and after the year of attainment of age 62 or onset of disability, or death cannot be used for purposes of recomputing the "guarantee" PIA.

New paragraph (8) provides that special minimum PIA's that were computed for beneficiaries under the law in effect prior to January 1979 will be recomputed to take account of the increase from \$9 to \$11.50 in the dollar amount. The recomputation will be effective beginning January 1979.

Cost-of-living increases in benefits

Section 201(g)(1) of the bill amends section 215(i)(2)(A)(ii) to specify that an automatic benefit increase effective for June of a year in which the Secretary determines that a cost-of-living computation quarter, which triggers such an increase, has occurred will apply to: (1) The benefits of those entitled to special payments under sections 227 and 228; (2) the PIA's on which beneficiaries are entitled including the frozen minimum PIA's and special minimum PIA's; and (3) maximum family benefits at the same time as the PIA's on which they are based, where a PIA was computed under the law in effect in December 1978 will be increased at the same time as the PIA's except as provided in new paragraphs 6 and 7 of section 203.

As under present law, the increase in the Consumer Price Index (CPI) measured from the last cost-of-living computation quarter to the current one (or from the last quarter in which an *ad hoc* increase became effective) and rounded to the nearest .1 of 1 percent will be applied to the benefits, PIA's, and family maximums listed above. The increased PIA's will be rounded to the next higher \$.10 if not an even \$.10. For beneficiaries getting special minimum benefits, the PIA's on which the special minimum benefits are based will be increased. The increase will be determined from the revised range of special minimum PIA's published by the Secretary.

Section 201(g)(2) of the bill amends section 215(i)(2)(A) of the Act by adding a new clause to make the automatic benefit increases in a year applicable to PIA's computed or recomputed in that year, regardless of when entitlement began in that year. However, the increases would be effective only for benefits payable for months after May of that year.

Section 201(g)(3) of the bill amends section 215(i)(2)(D) of the Act to provide that when the Secretary publishes the amount of an automatic cost-of-living benefit increase in the Federal Register, he must also publish the range of increased special minimum PIA's possible and corresponding family maximums for the next year. The effect of this provision is that the \$11.50 dollar amount for computing special minimum PIA's will not be increased to take account of increases in the cost of living. Instead the range of PIA's possible based on the \$11.50 dollar amount will be revised whenever an automatic benefit increase is effective. Each revised range of special minimum PIA's will apply to both current and future beneficiaries.

Section 201(g)(4) amends section 215(i) by adding a new paragraph (4) that provides that the automatic adjustment of benefit provisions in effect prior to 1979 shall continue to apply for workers who became eligible for old-age insurance benefits, have an onset of disability, or die before 1979 and requires that the Secretary publish the revised benefit tables for that purpose. The revised tables will not apply to those who became eligible for old-age insurance benefits, have an onset of disability, or die after 1978.

For people whose benefits are computed under the law in effect in December 1978 because the transitional provisions apply, the cost-of-living increases will not apply after 1978 and before they attain age 62, have an onset of disability or die (as provided in clause I of subsection (a)(4)(B)).

Maximum family benefits

Section 202 of the bill restates section 203(a) of the Social Security Act with changes to take account of the new system for computing PIA's based on wage-indexed earnings.

Paragraphs (1) and (2) of new section 203(a) provides for a formula for determining maximum family benefits. For workers who became eligible for old-age insurance benefits, have an onset of disability, or die in 1979, the formula for determining the maximum family benefit is:

150 percent of the first \$230 of PIA, plus
 272 percent PIA over \$230 through \$332, plus
 134 percent of PIA over \$332 through \$433, plus
 175 percent of PIA over \$433.

The resulting amounts will be rounded to the next higher \$.10 if not an even multiple of \$.10.

For workers who become eligible for old-age insurance benefits, have an onset of disability, or die in years after 1979, the dollar amounts in the formula will be increased to take account of increases in wages in the same way that the dollar amounts in the benefit formula in section 215(a) will be adjusted.

Subparagraph (C) of new paragraph (2) provides that by November 1 of each year after 1978, the Secretary will publish in the Federal Register the formula that will be applicable to workers who become eligible for old-age insurance benefits, have an onset of disability, or die in the following year. The formula will not apply for determining maximum family benefits for workers getting special minimum benefits.

Subparagraph (D) of new paragraph (2) provides that the formula in effect in a year will not apply to a worker who becomes eligible for a retirement or disability benefit or dies in that year if he was entitled to a disability benefit for any of the 12 months before he reached age 62, had a new onset of disability, or died. In such cases, the year of eligibility will be the year of onset of disability for the benefit the worker was entitled to during the prior 12 months.

New section 203(a)(3)(A) provides that when the family maximum provisions apply to a child entitled on the earnings of more than one insured worker, the maximum family benefit will not be less than the smaller of (1) the sum of each of the maximum family benefits (as under present law) or (2) 1.75 times the highest PIA possible in the year based on AIME equal to 1/12 of the contribution and benefit based effective in that year.

Section 203(a)(2) of the Act in effect prior to December 1978, the general saving clause for beneficiaries entitled prior to January 1971, is restated with reference changes and redesignated as section 203(a)(3)(B).

Section 203(a)(3) of the Act in effect prior to December 1978 is restated and redesignated as section 203(a)(3)(C). Also, references to "wife" are changed to "spouses" in order to take account of amendments made by title IV of the bill, which, among other changes, eliminated gender-based references in the Act and provides benefits for divorced husbands.

The new section 203(a)(4) restates that the matter following paragraph (3) of section 203(a) of the Act in effect prior to December 1978, which provides that when the total of monthly benefits are reduced for purposes of the maximum family benefit, each person's benefit, except an old-age or disability insurance benefit, will be reduced proportionately and deletes obsolete special provisions for reducing benefits of illegitimate children.

Section 203(a)(4) of the Act in effect prior to December 1978 (the "no-loss" saving clause) is redesignated as section 203(a)(5) and is

made applicable to all families whose benefits are limited by the family maximum. Under present law, only families in which the worker's benefit is reduced under section 202(q) are assured that the total benefits will not be less after a benefit increase than before the increase.

The new section 203(a)(6) provides that where an individual is entitled to benefits based on the PIA's of 2 or more workers and one of the PIA's is computed under the law in effect after 1978 and the other is computed under the law in effect prior to 1979, the total family benefits will be reduced to an amount equal to 1.75 times the highest PIA possible in the month based on AIME equal to 1/12 of the contribution and benefit base effective in that year.

The new section 203(a)(7) specifies that, subject to paragraph 6, the family maximum provisions in section 203(a) applicable under the law in December 1978 will remain in effect for workers who become eligible for old-age benefits, have an onset of disability, or die before 1979; for individuals who become eligible or die after 1978, the family maximum provisions in effect after 1978 will govern unless, as specified in new paragraph (2)(D), the worker was entitled to a disability benefit for any of the 12 months prior to the month he attained age 62, had an onset of disability, or death.

Increase in delayed retirement credit

Section 203 of the bill amends section 202(w) of the Act to permit the benefits to be increased after age 65 under this section regardless of whether the individual received any benefits reduced under section 202(q) prior to age 65.

This section further amends section 202(w) to provide that for workers who become eligible for old-age insurance benefits after 1978, the delayed retirement credit will be one-fourth of 1 percent per month.

Conforming amendments

Section 204(a) of the bill amends section 202(m)(1) of the Act to provide that, as under present law, a sole-surviving dependent will get a benefit equal to an amount no less than the minimum PIA provided in subsection (a)(1)(C)(i)(I). That benefit will be automatically adjusted under section 215(i) for increases in the cost of living beginning with months after May of the year in which the insured worker died.

Section 204(b) of the bill further amends section 202(w) of the Act to conform the references to the special minimum PIA for months before 1979 and for months after 1978.

Section 204(c) of the bill amends section 217(b)(1) of the Act to provide a conforming change in that provision to limit the references to computation provisions in section 215 to mean those sections as in effect prior to 1979.

Section 204(d) of the bill amends section 224(a) of the Act to retain the use of AME rather than AIME in the determination of average current earnings for purposes of determining the workmen's compensation offset.

Section 204(e) of the bill amends section 1839(c)(3)(B) of the Act to revise the method of automatically adjusting the supplementary medical insurance premium. The premium will be adjusted by using

the percentage increase in PIA's based on AIME of \$900. As under present law, the percentage is determined from May 1 of the year of promulgation to the following May 1.

Section 204(f) of the bill amends section 104(j)(2) of the Social Security Amendments of 1972 to refer to the section of the law defining elapsed years as amended by this bill.

Effective date

Section 205 of the bill provides that the amendments made in title II of the bill other than section 201(d) will be effective with respect to monthly benefits and lump-sum death payments for months after 1978. The amendments made by section 201(d) (the simplified method for computing PIA's where wages prior to 1951 are included in the computation) will be effective with respect to monthly benefits of an individual who becomes eligible for an old-age disability benefit, or dies after December 1977.

TITLE III—COVERAGE UNDER THE OLD-AGE SURVIVORS AND DISABILITY INSURANCE PROGRAM

Section 301. Coverage of Federal employees

Section 301 of the bill repeals the exclusion from social security coverage of services performed in the employ of the Federal Government.

Section 301(a) of the bill amends section 210(a) of the Social Security Act to repeal paragraphs (5) and (6), which now exclude from the definition of "employment" service performed in the employ of the United States or an instrumentality of the United States which is covered by a retirement system established by United States law, and of certain other instrumentalities of the United States. It also makes the technical and conforming changes in other provisions of the Act which are necessary to reflect the repeal of this exclusion.

Section 301(b) of the bill amends section 3121 of the Internal Revenue Code of 1954 to conform to the amendment made in section 210(a) of the Act by section 301(a) of the bill.

Section 301(c) of the bill provides that these amendments will be effective with respect to service performed after December 1981.

Section 301(d)(1) of the bill provides that the Secretary, in consultation with the Civil Service Commission shall make a study on how best to coordinate the benefits of the civil service retirement system with the OASDI program to develop for Federal employees a combined program of retirement, desirability, and related benefits to assure that employees are no worse off, comparing their benefits under the combined program with the benefits they would receive under the Federal staff systems then in effect, after their coverage under the OASDI program.

Section 301(d)(2) of the bill provides that no later than January 1, 1980, the Secretary shall submit a report of the study to Congress. The report will contain a specific and detailed plan for coordination of the two systems including provisions for financing and benefits.

Section 301(e) of the bill provides that the Secretary shall carry out a study of how best to coordinate the Medicare program and the program established by the Federal Employees Health Benefits Act

with the objective of developing for Federal employees a combined health insurance program to accompany the retirement and disability program developed under subsection (d). The combined health insurance program shall assure that Federal employees are no worse off under that program than they were under the Federal Employees Health Benefits Act. A report of the study shall be submitted to Congress along with the report submitted under subsection (d) (2).

Section 302. Coverage of State and local employees

Section 302(a) of the bill eliminates the provisions in present law for terminations of coverage of State and local employment.

Section 302(a) (1) of the bill amends section 218(g) of the Social Security Act to make the provisions under present law for termination of coverage under a State's agreement with the Secretary subject to a new paragraph, (4), which is added by Section 302(a) (2) of the bill.

Section 302(a) (2) of the bill adds to section 218(g) of the Act a new paragraph, (4), to provide that social security coverage under a State's agreement with the Secretary may not be terminated unless the 2 years' advance notice required under present law is given before September 14, 1977.

Section 302(b) of the bill provides compulsory coverage for employees of State and local governments with respect to services performed after December 1981.

Section 302(b) (1) of the bill repeals section 218 of the Act which provides coverage for employees of State and local governments under voluntary agreements between the States and the Secretary.

Section 302(b) (2) of the bill amends section 210(a) of the Act to remove the exclusion from the definition of "employment" of services performed by employees of a State or political subdivision and certain services performed in the employ of the District of Columbia or the Government of Guam and American Samoa.

Section 302(b) (3) of the bill amends section 3121(b) of the Internal Revenue Code to remove the exclusion from the definition of "employment" of services performed by employees of a State or political subdivision and certain services performed in the employ of the District of Columbia, or the Governments of Guam and American Samoa.

Section 302(c) of the bill amends certain provisions of the Internal Revenue Code of 1954 to provide that, for purposes of adjustments because of payment of insufficient or excess employment taxes, State and local governments and their employees will be treated the same as other nonforeign governments and their employees.

Section 302(c) (1) (A) of the bill redesignates Sections 3126 and 3127 of the Code as Sections 3127 and 3128 respectively and adds a new section 3126. The new section permits the Governor of a State and his designees to make returns and payments of social security contributions for State and local employment in the State. The new section also permits the person making a return to pay the employer's contributions without regard to the limits imposed by the contribution and benefit base. (This provision is consistent with provisions in present law with respect to employment for the Governments of Guam, American Samoa, and the District of Columbia.)

Section 302(c) (1) (B) of the bill amends the table of sections for chapter 21 of the Code to conform to the amendment made by section 302(c) (1) (A) of the bill.

Section 302(c) (2) (A) of the bill amends section 6205(a) of the Code by changing the references in paragraphs (3) and (4) from "section 3125" to "section 3126" and by redesignating those two paragraphs as paragraphs (4) and (5) respectively. This section of the bill also adds a new paragraph (3) to provide that, for purposes of adjustments because of payments of insufficient social security employer and employee contributions, railroad retirement employer and employee taxes, and employees' withheld income taxes, with respect to remuneration for employment received from a State or political subdivision or instrumentality which is wholly owned by the State, the Governor of the State and each person designated by him under section 3126 of the Code shall be treated as separate employers. (This provision is consistent with provisions in present law with respect to remuneration for employment received from the Governments of the United States, Guam, American Samoa, and the District of Columbia.)

Section 302(c) (2) (B) of the bill amends section 6413(a) of the Code to conform to the amendment made by section 302(c) (1) (A) of the bill and by redesignating paragraphs (3) and (4) as paragraphs (4) and (5) respectively. This section of the bill also adds a new paragraph (3) to provide that, for purposes of adjustments because of payment of excess social security employer and employee contributions, railroad retirement employer and employee taxes, and employees' withheld income taxes with respect to remuneration received for employment from a State or political subdivision or instrumentality which is wholly owned by the State, the Governor of the State and each person designated by him under section 3126 of the Code shall be treated like separate employers. (These provisions are consistent with the provisions in present law with respect to remuneration for employment received from the Governments of the United States, Guam, American Samoa, and the District of Columbia.)

Section 302(c) (2) (C) of the bill replaces subparagraph (B) of section 6413(c) (2) of the Code with a new subparagraph (B). (Under the present subparagraph (B), remuneration for services covered by an agreement between a State and the Secretary of Health, Education, and Welfare under section 218 of the Act is treated as covered wages and the contributions made with respect to such remuneration are treated as other social security contributions for purposes of making refunds to employees for payment of excess social security employer and employee contributions, railroad retirement taxes, and withheld employees' income tax.) The new subparagraph (B) provides that the Governor of a State and each person designated by him under section 3126 of the Code shall be treated as a separate employer for purposes of refunding to employees the excess employment taxes paid on remuneration received from a State or a subdivision or an instrumentality which is wholly owned by the State. (This provision is consistent with provisions in present law with respect to refunds of employment taxes for employees of the Governments of the United States, Guam, American Samoa, and the District of Columbia.) This

section of the bill also amends subparagraphs (D), (E), and (F) of section 6413(C)(2) of the Code to conform to the amendment made by section 302(c)(1)(A) of the bill.

Section 302(c)(3) of the bill amends section 230(c) of the Act to conform to the amendment made by section 302(c)(1)(A) of the bill.

Section 302(d) of the bill makes changes to the Act to conform with the repeal of section 218 of the Act.

Section 302(d)(1) of the bill amends section 205(c)(5)(F)(iii) of the Act to provide that, after the repeal of section 218 of the Act, the social security earnings records of State and local employees can be corrected after the statute of limitations has run if assessments of the amounts due under section 218 of the Act were made within the prescribed time limits.

Section 302(d)(2) of the bill amends section 209(i) of the Act (which covers as wages sick pay to an employee over age 62) to remove the reference to section 218 of the Act.

Section 302(d)(3) of the bill amends section 210(a)(10)(B)(ii) of the Act (which makes an exception to the exclusion from covered employment of services performed by students in schools, colleges, and universities when such services are covered under an agreement between a State and the Secretary) to remove the reference to section 218 of the Act.

Section 302(d)(4) of the bill repeals section 210(k) of the Act which provides compulsory coverage for certain employees of transportation systems acquired by a State or political subdivision from private ownership.

Section 302(d)(5) of the bill amends section 211(c)(1) of the Act (which includes in the definition of a trade or business, functions performed by a State or local official compensated solely on a fee basis) to remove the reference to section 218 of the Act.

Section 302(d)(6) of the bill amends section 211(c)(2)(E) of the Act (which makes an exception to the exclusion from the definition of trade or business of service performed by an employee if the service is performed by an employee of a State or political subdivision compensated solely on a fee basis) to remove the reference to section 218 of the Act.

Section 302(e) of the bill makes changes to the Code consistent with the repeal of section 218 of the Act.

Section 302(e)(1) of the bill amends section 1402(b) of the Code (which defines self-employment income) to remove the reference to section 218 of the Act.

Section 302(e)(2) of the bill amends section 1402(c)(1) of the Code (which includes in the definition of a trade or business functions performed by a State or local official compensated solely on a fee basis) to remove the reference to section 218 of the Act.

Section 302(e)(3) of the bill amends section 1402(c)(2)(E) of the Code (which makes an exception to the exclusion from the definition of trade or business of service performed by an employee of a State or local subdivision if the service is compensated solely on a fee basis) to remove the reference to section 218 of the Act.

Section 302(e)(4) of the bill amends sections 3121(b)(10)(B)(ii) of the Code (which makes an exception to the exclusion from covered employment of services performed by students in schools, colleges, and universities, when such services are covered under an agreement between a State and the Secretary of Health, Education, and Welfare) to remove the reference to section 218 of the Act.

Section 302(e)(5) of the bill repeals section 3121(j) of the Code, which provides compulsory coverage for certain employees of transportation systems acquired by a State or political subdivision from private ownership.

Section 302(e)(6) of the bill repeals section 6511(d)(5) of the Code, which permits a refund of an overpayment of self-employment tax to a State or local employee where the overpayment is attributable to retroactive social security coverage.

Section 302(f) of the bill provides that sections 302(b) through 302(e)(5) apply with respect to services performed after December 1981, and section 302(e)(6) applies with respect to claims accruing after December 1981.

Section 303. Coverage of employees of nonprofit organizations

Section 303(a) of the bill phases out the provisions in present law for terminations of coverage of employment for tax-exempt, nonprofit organizations described in section 501(c)(3) of the Internal Revenue Code of 1954.

Section 303(a)(1)(A) of the bill amends section 312(k)(1)(D) of the Code to provide that termination of coverage of employees of nonprofit organizations is subject to the conditions specified in the new section 3121(k)(1)(G) of the Code.

Section 303(a)(1)(B) of the bill adds a new section 312(k)(1)(G) to the Code to provide that social security coverage of employees of a nonprofit organization may not be terminated by the organization unless the 2 years' advance notice required under present law is given before September 14, 1977.

Section 303(a)(2) of the bill amends section 3121(k)(2) of the Code to provide that coverage of employees of a nonprofit organization may be terminated by the Secretary with concurrence of the Secretary of Health, Education, and Welfare only if the required 60-day notice is given before September 14, 1977.

Section 303(b) of the bill provides compulsory coverage for employees of nonprofit organizations with respect to services performed after December 1981.

Section 303(b)(1) of the bill amends section 210(a)(8) of the Social Security Act by deleting subparagraph (B), thus eliminating from the list of services excluded from the definition of "employment" those services performed in the employ of the tax-exempt, nonprofit organizations.

Section 303(b)(2) of the bill amends section 3121(b)(8) of the Code to conform to the amendment made by section 303(b)(1) of the bill.

Section 303(b)(3) of the bill repeals section 3121(k) of the Code (relating to exemption of religious, charitable, and certain other organizations).

Section 304. Crediting of certain Federal, State, and local service, and certain service for nonprofit organizations, performed prior to the effective date of coverage

Section 304 of the bill amends section 213 of the Social Security Act to add a new subsection (d). The new subsection provides quarter-of-coverage credits in the case of an individual who performed services in the employ of the United States, a State or political subdivision, or a tax-exempt nonprofit organization before coverage is provided for such services (by the repeal of paragraphs (5) and (6) of section 210(a) of the Act by section 301(a) of the bill) and who also performs services in the same kind of employment and derives at least 6 quarters of coverage from such services after coverage is provided for such services under provisions of the bill. Each calendar quarter in which such an individual performed any such services before coverage was provided under provisions of the bill is treated as a quarter of coverage if it is not otherwise a quarter of coverage.

Section 305. Exclusion from coverage of certain limited partnership income

Section 305(a) of the bill amends section 211(a) of the Social Security Act by adding a new paragraph (11), which excludes from the definition of "net earnings from self-employment" the distributive share of income or loss received by a limited partner from the trade or business of a limited partnership. This exclusion does not extend to guaranteed payments as defined in section 707(c) of the Internal Revenue Code of 1954, such as salary and professional fees, received for services actually performed by the limited partner for the partnership.

Section 305(b) of the bill amends section 1402(a) of the Code by adding a new paragraph (12), which provides a change relating to definition of "net earnings from self-employment" to conform to the amendment made to section 211(a) of the Act by section 305(a) of the bill.

Section 305(c) of the bill provides that the amendment will apply with respect to taxable years beginning after December 31, 1977.

Section 306. Tax on employers of individuals who receive income from tips

Section 306(a) of the bill amends section 3121 of the Internal Revenue Code of 1954 by adding a new subsection (s), which provides that tips received by employees which are deemed to be wages under the Fair Labor Standards Act of 1938 will also be deemed to be wages under the Federal Insurance Contributions Act.

Section 306(b) of the bill amends section 3111 of the Code to impose social security taxes on employers for tips received by their employees deemed to be wages under the Fair Labor Standards Act.

Section 306(c) of the bill provides that the amendment will be effective with respect to wages paid for employment performed after December 1977.

Section 307. Revocation of exemption from coverage by clergymen

Section 307 of the bill permits clergymen who have waived social security coverage to revoke their waivers.

Section 307(a) of the bill provides that a minister or Christian Science practitioner who has received an exemption under section

1402(e) of the Internal Revenue Code from the payment of social security contributions which is in effect for the taxable year in which the bill is enacted may revoke the exemption by filing an application for revocation. Such application must be filed before the minister or Christian Science practitioner becomes entitled to social security retirement or disability benefits and no later than the due date of his Federal income tax return for his first taxable year beginning after the date of enactment of the bill. The revocation will be effective for social security benefit purposes and for self-employment tax purposes for the applicant's first taxable year ending on or after the date of enactment of the bill or beginning after that date (whichever is specified in the application) and for all succeeding taxable years. An individual whose exemption is revoked may not again file for an exemption. An application which is filed on or after the due date of the applicant's first taxable year ending on or after the date of enactment of the bill and which is effective for that taxable year must be accompanied by payment of the self-employment taxes due on the self-employment income derived in that taxable year.

Section 307(b) of the bill provides that the revocation provided in subsection 307(a) will apply (to the extent specified in subsection 307(a)) to services performed in taxable years ending on or after the date of the enactment and for social security cash benefits payable for months in or after the calendar year in which the application for revocation is filed.

Section 308. International agreement with respect to social security benefits

Section 308(a) provides that title II of the Social Security Act is amended by adding a new section 233 entitled "International Agreements."

Subsection (a) of the new section 233 authorizes the President to enter into agreements establishing totalization arrangements between the social security systems of the United States and of any foreign country. The purpose of such an agreement is to permit each country to establish entitlement to old-age, survivors and disability benefits and to benefits derived therefrom on the basis of an individual's credits in both countries, and in such cases to permit the establishment of special benefit amounts.

Subsection (b)(1) of the new section 233 defines "social security system" with respect to a foreign country as a social insurance or pension system which is of general application in the country and which pays periodic benefits (or the actuarial equivalent thereof) on account of old-age, death, or disability.

Subsection (b)(2) of the new section 233 defines the term "period of coverage" as a period of payment of contributions of a period of earnings based on wages for employment or on self-employment income, or any similar period recognized as equivalent under the U.S. social security system or that of the country party to an agreement entered into under the new section 233 of the Act.

Subsection (c)(1) of the new section 233 prescribes certain provisions that must be contained in any agreement.

Subsection (c)(1)(A) requires that an agreement contain a provision for combining periods of coverage under the Act with periods of

coverage under the foreign social security system for purposes of determining entitlement to and the amount of benefits under the Act. Subparagraph (A) also requires that an individual have at least 6 quarters of coverage under the Act before his periods of foreign coverage can be combined with his periods of coverage under the Act.

Subsection (c) (1) (B) (i) requires that an agreement contain provisions for the elimination of dual coverage. United clause (i), an agreement must provide that employment or self-employment (or service recognized as equivalent under the Act or the social security system of the foreign country party to the agreement) shall, on or after the effective date of an agreement, result in a period of coverage under the Act or under the foreign system, but not under both.

Clause (ii) of subsection (c) (1) (B) requires that an agreement contain a provision setting forth the methods for determining under which system the service shall result in a period of coverage. Under this clause, a worker with a permanent connection with one system is covered by existing law under the other system, an agreement could provide that coverage be under the system with which the worker has the permanent connection. Further, where the work of a national of one country for a national of the other country now is not covered under any system [escapes coverage altogether], an agreement could cover him under one of the two systems.

Subsection (c) (1) (C) requires that an agreement contain a provision for payment of partial benefits under the Act where entitlement is acquired on the basis of combined periods of coverage under title II and under the foreign system. The benefit payable under the Act will be based on the proportion of the individual's periods of coverage completed under the Act.

Subsection (c) (2) describes two types of provisions that may be included in an agreement. Subparagraph (A) permits an agreement to make an exception to the existing alien non-payment provisions (section 202(t) of the Act) by permitting payment of benefits to any individual residing in the other country who qualifies for a benefit under the Act without recourse to an agreement or for a benefit under an agreement.

Subsection (c) (2) (B) permits an agreement to provide that if a resident of the United States receives benefits under an agreement both from the United States and from the other country party to the agreement, and the total amount of the two benefits is less than the minimum for which he would qualify under the U.S. system if all his periods of coverage had been covered under the U.S. system, the United States will supplement the amount to raise it to the minimum benefit for which he would have qualified. (This minimum would be the amount based on the lowest figure in the table in section 215(a) of the Act, but for persons becoming eligible after 1978, the amount would be frozen at the December 1978 level.)

Subsection (c) (3) of the new section 233 provides that an individual who qualifies for a cash benefit under the Act only by combining quarters of coverage under the Act with periods of coverage under a foreign system will not thereby become entitled to benefits under section 226 of the Act (Part A of Medicare).

Subsection (c) (4) of the new section 233 permits an agreement to contain other provisions not inconsistent with section 233.

Subsection (d) of the new section 233 authorizes the Secretary to make rules and regulations and to establish reasonable and necessary procedures to carry out an agreement.

Subsection (e) (1) of the new section 233 provides for oversight of agreements by Congress by providing that any agreement entered into must be transmitted to Congress by the President.

Subsection (e) (2) provides that an agreement cannot go into effect until 90 days after it has been transmitted to the Congress. (If the Congress concurs in the proposed agreement, no action by the Congress will be necessary. If the Congress disapproves of the proposed agreement, or wishes to alter any of its provisions, it will be necessary to enact a statute to that effect.)

Section 308(b) (4) of the bill provides that where an agreement is in Internal Revenue Code of 1954 necessary to implement subsection (c) (1) (B) (i) of the new section 233 which provides for the elimination of dual coverage and the designation of which system will cover the work of an individual. Amendments are made by adding new subsections (c) to section 1401 (self-employment tax), section 3101 (employee FICA tax) and section 3111 (employer FICA tax) of the Code. Each of the new subsections provides for an exemption from the respective taxes to the extent that the self-employment income or wages involved are taxed under the social security system of the foreign country.

Section 308(b) (3) of the bill amends section 6051(a) of the Code (relating to receipts for employees (Forms W-2) which employers must furnish after the close of each calendar year) by adding a new sentence at the end of section 6051(a). The new sentence provides that wages exempted from the taxes imposed by sections 3101 (employee FICA tax) and section 3111 (employer FICA tax) of the Code pursuant to section 3101(c) or section 3111(c) of the Code as added by section 308(b) (2) of the bill shall not be included in the total amount of wages as defined in section 3121(a) of the Code (FICA wages) for purposes of the W-2. (This provision is intended to avoid the considerable administrative problems for the Social Security Administration and the Internal Revenue Service which would occur if wages exempted from FICA taxes under a totalization agreement were required to be included in the total amount of FICA wages paid as shown on the Form W-2.)

Section 308 (b) (1) and (2) of the bill make amendments to the Internal Revenue Code of 1954 between the United States and another country, an individual may not claim an income tax deduction or credit for the payment of the foreign social security tax.

Section 309. Validation of past Social Security coverage for Certain Illinois policemen and firemen.

Section 309(a) of the bill validates coverage of certain earnings erroneously reported to the Secretary by the State of Illinois by deeming the agreement between the Secretary and the State of Illinois provid-

ing coverage for State and local employees in Illinois to apply[es] to all services performed prior to December 31, 1977, by any individual employed by the State of Illinois or by a political subdivision in a policeman's or fireman's position covered by the Illinois Municipal Retirement Fund. The validation would apply only for those services for which the State of Illinois has paid to the Secretary of the Treasury the sums due for such services under section 218(e)(1)(A) of the Act (amounts equivalent to social security employer and employee contributions) and has not received a refund or has received a refund but repays the refund to the Secretary of the Treasury within 90 days after the date of enactment of the bill.

Section 309(b) provides that the validation of coverage authorized by subsection (a) shall not apply with respect to services performed by individuals employed by any political subdivision which indicates in a manner and within a period to be prescribed by the Secretary that it does not wish the validation to apply with respect to those services.

Section 310. Coverage for policemen and firemen in Mississippi

Section 310 of the bill amends section 218(p)(1) of the Social Security Act to add the State of Mississippi to the list of States specifically named in the law which may modify their section 218 agreements to provide coverage under the social security program for policemen and firemen who are in positions under a State or local retirement system.

The provision would be effective upon enactment but coverage permitted by the provision would be effective on whatever date is specified by the State of Mississippi in the modification of its agreement, but could not be earlier than the beginning of the fifth year before the year in which the coverage is arranged.

Section 311. Coverage under divided retirement system for State and local employees in New Jersey

Section 311 of the bill amends section 218(d)(6)(C) of the Social Security Act to add the State of New Jersey to the list of States specifically named in the law which may modify their section 218 agreements to divide a retirement system to provide coverage under the social security program for those current retirement system members who want coverage and for all future employees.

The provision would be effective upon enactment but the effective date of coverage permitted pursuant to the provision would be whatever date is specified by the State of New Jersey in the modification of its agreement, but could not be earlier than the beginning of the fifth year before the year in which the coverage is arranged.

Section 312. Coverage of service under Wisconsin retirement system

Section 312 of the bill amends section 218(m)(1) of the Social Security Act by adding "or any successor system" after "the Wisconsin Retirement Fund". Under this change, the special provisions that apply to the Wisconsin Retirement Fund would apply to any successor to that fund.

This section would be effective upon enactment.

Section 313. Conforming amendments

Section 313(a) of the bill redesignates paragraphs (8) through (20) in section 210(a) of the Social Security Act as paragraphs (5)

through (17) respectively and makes conforming changes in references cited in sections 205(o), 210(b), and 211(c)(2) of the Act.

Section 313(b) of the bill redesignates paragraphs (8) through (20) in section 3121(b) of the Internal Revenue Code of 1954 as paragraphs (5) through (17) respectively and makes conforming changes in references cited in sections 1402, 3121, and 3124 of the Code.

Section 313(c) of the bill makes a conforming change in a reference cited in section 18(2) of the Railroad Retirement Act of 1974 to reflect the renumbering of paragraphs in section 210(a) of the Act by section 307(a) of the bill.

Section 313(d) of the bill provides that these amendments will be effective with respect to service performed after December 1981.

TITLE IV—ELIMINATION OF GENDER-BASED DISTINCTIONS UNDER THE OLD-AGE SURVIVORS AND DISABILITY PROGRAM

Part A—Equalization of Treatment of Men and Women Under the Program

Section 401. Divorced husbands

Section 401 of the bill provides benefits based on a retired, disabled, or deceased woman's social security earnings record for a divorced husband or surviving divorced husband on the same basis as benefits are now provided for women in like circumstances. (Section 416 of the bill will later shorten the duration-of-marriage requirement for divorced men and women.)

Section 401(a)(1) of the bill amends section 202(c)(1) of the Act, which provides husband's insurance benefits based on a retired or disabled woman's social security earnings record, to provide benefits for the divorced husband age 62 or over of a retired or disabled worker.

Section 401(a)(2) of the bill further amends section 202(c)(1) of the Act by adding a new subparagraph (C) which provides that a divorced husband (like a divorced wife) must not be married at the time he applies for benefits in order to become entitled to benefits based on his former wife's earnings. (This provision is subsequently repealed by Section 415 of the bill.)

The section also provides that benefits for husbands and divorced husbands will be terminated in the same situations as benefits for wives and divorced wives are now terminated by adding to the provisions of present law for terminating entitlement to husband's insurance benefits. Thus, husband's benefits will also terminate (1) when a retired or disabled worker and her husband are divorced and either he has not reached age 62 or he has reached age 62 but has not been married to the worker for a period of 20 years immediately before the divorce, or (2) when a divorced husband marries a person other than the worker. (The latter provision is subsequently repealed by the provisions of section 415 of the bill.)

Section 401(a)(3) of the bill makes a conforming change in section 202(c)(3) of the Act to provide that, except as provided in section 202(q) of the Act, the amount of a divorced husband's monthly benefit will be equal to one-half the primary insurance amount of his former wife.

Section 401(a)(4) of the bill further amends section 202(c) of the Act by adding a new paragraph (4) to provide that marriage to certain social security beneficiaries (women receiving benefits as an adult disabled since childhood, or a divorced wife, widow, mother, or parent) will not terminate benefits for divorced husbands, as is now the case for divorced wives. (This provision will be obviated by the provisions of section 415 of this bill.)

Section 401(a)(5) of the bill further amends section 202(c) of the Act to make a conforming change to take account of the redesignation (in section 401(a)(2)) of subparagraph (C) of section 202(c)(1) as subparagraph (D).

Section 401(a)(6) of the bill amends section 202(b)(3)(A) of the Act, which allows continuation of benefits for divorced wives who marry certain other social security beneficiaries, to provide that benefits for a divorced wife will not be terminated because of marriage to a person receiving benefits as a divorced husband. (These provisions will be obviated by the provisions of section 415 of the bill.)

Section 401(a)(7) of the bill makes a conforming change in section 202(c)(1)(E) of the Act, as redesignated by section 401(a)(2) of the bill.

Section 401(b)(1) of the bill amends section 202(f)(1) of the Act, which provides widower's insurance benefits based on a deceased woman's social security earnings record, to provide widower's insurance benefits for the surviving divorced husband, age 60 or over, of a deceased worker.

Section 401(b)(2), (3), and (4) of the bill make conforming changes in section 202(f) (widower's insurance benefits) of the Act to make reference to a deceased former spouse as well as a deceased spouse.

Section 401(b)(5) further amends section 202(f)(4) to make a conforming reference to the marriage rather than remarriage of a surviving divorced husband and to refer to a surviving divorced husband's entitlement to benefits as well as a widower's entitlement.

Sections 401(b)(6), (7), and (8) of the bill amend sections 202(e)(3)(A), 202(g)(3)(A), and 202(h)(4)(A) of the Act respectively which relate to continuation of benefits for widows, mothers and parents, respectively, who marry certain other social security beneficiaries to provide that their benefits will not be terminated because of marriage to a person receiving benefits as a divorced husband. These sections of the Act will be repealed effective January 1, 1979 by section 415 of this bill which eliminates marriage or remarriage as a factor terminating or reducing benefits.

Section 401(c)(1) of the bill amends section 216(d) of the Act to provide definitions of "divorced husband" and "surviving divorced husband" as a man divorced from an individual (or an individual who has died) but only if he was married to such individual for 20 years immediately before the divorce. The definition and duration-of-marriage requirement are equivalent to the current definition of and requirement for a divorced wife and surviving divorced wife in Section 216(d). The duration-of-marriage requirement for divorced spouses will be reduced from 20 years to 5 years effective January 1, 1979, by Section 416 of this bill.

Section 401(c)(2) of the bill amends the heading of section 216(d) of the Act by changing it from "Divorced Wives; Divorce" to "Divorced Spouses; Divorce".

Section 401(d)(1) of the bill amends section 205(b) of the Act, which relates to the procedural rights of individuals applying for benefits, to make a conforming change adding divorced husbands and surviving divorced husbands to the list of individuals who can request a hearing.

Section 401(d)(2) of the bill amends section 205(c)(1)(C) of the Act to make a conforming change by including a surviving divorced husband in the definition of a "survivor".

Section 402. Remarriage of surviving spouse before age 60

Section 402 of the bill amends section 202(f)(1)(A) of the Act to replace the existing requirement for entitlement to widower's insurance benefits that a widower must not have remarried before age 60 with the requirement that he not be married at the time he applies for such benefits, as is now the case for widows. (Section 202(f)(1)(A) as amended by this section would be deleted by section 415(d) of the bill which provides that marriage or remarriage will not bar entitlement to widower's benefits).

Section 403. Illegitimate children

Section 403 of the bill provides that an illegitimate child's status for purposes of entitlement to children's insurance benefits will be determined with respect to the child's mother in the same way as it is now determined with respect to the child's father. The section also amends the Social Security Act to conform to a 1974 Supreme Court decision in *Jimenez v. Weinberger*, which provided that certain illegitimate children could get benefits based on a disabled worker's earnings if the relationship and/or living with or support requirements in the statute are met at the time the child applies for benefits instead of before the worker becomes disabled, and makes a similar change with respect to children of retired workers (which were not covered by the Court's decision).

Section 403(a) of the bill amends section 216(h)(3) of the Act to provide that, as in the case of a man under present law, a woman's illegitimate child who cannot inherit from her under applicable State interstate property law and who, as a result, is not considered to be her child for social security benefit purposes, and cannot be deemed to be her child for such purposes under other provisions of such section 216(h)(3) (which are currently the same for men and women) will nevertheless be deemed to be her child for social security benefit purposes if the woman has been decreed by a court to be the child's mother, or, alternatively, the woman is shown by evidence satisfactory to the Secretary of Health, Education, and Welfare to be the child's mother and was living with or contributing to the child's support at the time the child applies for benefits.

Section 403(b) of the bill amends section 215(h)(3)(A)(i) of the Act (to parallel the Supreme Court decision in *Jimenez v. Weinberger*) to repeal the time requirement in present law that, for purposes of child's insurance benefits for an illegitimate child who cannot inherit from his parent under applicable State interstate property law, a

retired worker's acknowledgement or a court decree that the child is his son or daughter or a court order of support must be made not less than one year before the worker became entitled to old-age insurance benefits or reached age 65.

Section 403(c) of the bill amends section 216(h)(3)(A)(ii) of the Act (to parallel the Supreme Court decision in *Jimenez v. Weinberger*) to replace the present requirement that a retired worker who is shown by evidence satisfactory to the Secretary to be the parent of an illegitimate child who cannot inherit from his parent under applicable State interstate property law was living with or contributing to the child's support at the time the worker became entitled to old-age insurance benefits or reached age 65, with a requirement that such living with or support requirement be met at the time the child applies for benefits.

Section 403(d) of the bill amends section 216(h)(3)(B)(i) of the Act (to conform to the Supreme Court decision in *Jimenez v. Weinberger*) to repeal the time requirement in present law that, for purposes of child's insurance benefits for an illegitimate child who cannot inherit from his parent under applicable State interstate property law, a disabled worker's acknowledgement or a court decree that the child is his son or daughter or a court order of support must be made before the worker's most recent period of disability began.

Section 403(e) of the bill amends section 216(h)(3)(B)(ii) of the Act (to conform to the Supreme Court decision in *Jimenez v. Weinberger*) to replace the present requirement that a disabled worker who is shown by evidence satisfactory to the Secretary to be the parent of an illegitimate child who cannot inherit from his parent under applicable State interstate property law was living with or contributing to the child's support at the time the worker's most recent period of disability began, with a requirement that such living with or support requirement be met at the time the child applies for benefits.

Section 404. Transitional insured status

Section 404 of the bill amends section 227 of the Social Security Act, which provides benefits for certain people who do not meet the regular insured status requirements to provide benefits for husbands and widowers (where comparable benefits are paid to wives and widows under present law).

Section 404(a) of the bill amends section 227(a) of the Social Security Act to provide for the payment of husbands' benefits under section 227.

Section 404(b) of the bill amends section 227(b) and 227(c) of the Social Security Act to provide for the payments of widowers' benefits under section 227.

Section 404(c) of the bill amends section 216 of the Social Security Act by adding a new section 216(a). (The previous section 216(a), defining retirement age, was repealed in 1961.) The new section 216(a) would define "spouse" as a wife or husband as defined in subsection 216(b) or (f), respectively, and "surviving spouse" as a widow or widower as defined in subsection 216(c) or (g), respectively.

Section 405. Equalization of benefits under section 228

Section 405 of the bill amends section 228 of the Act, which provides special payments to certain uninsured individuals, to provide that

each member of an eligible couple will get an equal payment (rather than, as under present law, a larger amount for the man and half that amount for his wife).

Section 405(a) of the bill amends section 228(b)(2) of the Social Security Act to provide that where a husband and wife are both receiving benefits under section 228 both of them will receive the same amount, the greater of \$48.30 or \$48.30 increased under the automatic provisions. (\$48.30 is half the amount of the payment for a couple under the last *ad hoc* benefit increase, enacted in 1973, and effective June 1974. This amount increased by the automatic cost of living increases (8 percent in 1975, 6.4 percent in 1976, and 5.9 percent this year) would now be \$58.90 and subject to future automatic increases).

Section 405(b) of the bill amends section 228(c)(3) of the Social Security Act to provide that when both spouses are receiving benefits under this section and one spouse is also receiving a governmental pension, the benefit of the other spouse will be reduced by the amount that the governmental pension exceeds \$48.30 or \$48.30 increased under the automatic provision.

Section 405(c) of the bill authorizes the Secretary to increase the \$48.30 figure for those who get benefits under section 228 as amended by the benefit increases that have occurred since 1974.

Section 406. Father's insurance benefits

Section 406 of the bill provides benefits based on a retired, disabled, or deceased woman's social security earnings record for a husband, divorced husband, widower, or surviving divorced father caring for a minor or disabled child beneficiary on the same basis as benefits are provided for women in like circumstances.

Section 406(a) of the bill amends section 202(g) of the Act, which provides mother's insurance benefits based on a deceased worker's social security earnings record for a widow or surviving divorced mother caring for a minor or disabled child beneficiary, by changing the words in the present section that refer only to women—for example, widow—to words that refer to either men or women—example, surviving spouse—so as to provide benefits for a widower as well as a widow, and a surviving divorced father as well as a surviving divorced mother, on the same basis as for women.

Section 406(b) of the bill amends the heading of section 202(g) of the Act by changing it from "Mother's Insurance Benefits" to "Mother's and Father's Insurance Benefits".

Section 406(c) of the bill amends section 216(d) of the Act (as amended by section 401 of the bill) to provide definitions of "surviving divorced father" and "surviving divorced parent." A surviving divorced father is defined as a man divorced from an individual who has died if (a) he is the father of her son or daughter, or (b) he legally adopted her son or daughter, or (c) she legally adopted his son or daughter while he was married to her and while the son or daughter was under age 18, or (d) he was married to her at the time both of them legally adopted a child under age 18. This definition is equivalent to that of a surviving divorced mother in section 216(d)(3) of present law. A surviving divorced parent is defined as either a surviving divorced mother or surviving divorced father.

Section 406(d) of the bill makes a conforming change in section 202(c)(1) of the Act to provide a cross reference to section 202(s) of the Act which is amended by section 411(f) of the bill. Taken together, the effect of these changes is to preclude entitlement of a man to husband's insurance benefits before age 62 where the only entitled child he has in his care is getting benefits solely on the basis of being a full-time student, as is now the case with respect to a woman.

Section 406(e) of the bill amends section 202(c)(1)(B) of the Act to provide that a retired or disabled worker's husband under age 62 who is caring for an entitled child beneficiary may qualify for husband's insurance benefits.

Section 406(f) of the bill amends section 202(c)(1) of the Act (as amended by section 401(a)(2)(C) of the bill) to provide that husband's insurance benefits will terminate when a man under age 62 is no longer caring for an entitled child beneficiary.

Section 406(g) of the bill amends section 202(f)(1)(C) of the Act to provide for automatic conversion from father's insurance benefits to widower's insurance benefits at age 65.

Section 406(h) of the bill makes a conforming change in section 202(f)(6) of the Act with regard to the period of time during which, in the case of a widower who was previously entitled to father's benefits, the widower's disability must begin in order for him to become entitled to benefits as a disabled widower under age 60. Under present law, his disability must begin within 84 months after (1) his spouse's death or (2) the month his previous entitlement to disabled widower's benefits ended because his disability had ceased. Section 406(h) adds the 84-month period after his entitlement to father's benefits ends as an additional period of time during which a widower's disability may begin. This additional period of time is available to widows under present law.

Section 407. Effect of marriage on childhood disability beneficiary

Section 407(a) of the bill amends section 202(d)(5) of the Act to provide that the benefits of a male childhood disability beneficiary married to a childhood disability or disabled worker beneficiary would be terminated if the latter's benefits are terminated because she recovers or engages in substantial gainful work. (Present law provides for terminating the benefits of a female childhood disability beneficiary under similar circumstances.) Section 202(d)(5) of the Act would be deleted by section 415 of the bill, so that childhood disability benefits would not terminate for either men or women when the spouse's disability benefits are terminated.

Section 407(b) of the bill provides that the amendment made by section 407(a) of the bill will be effective with respect to terminations of benefits of a female beneficiary occurring after December 1977.

Section 408. Effect of marriage on other dependents' or dependent survivors' benefits

Section 408 of the bill provides for terminating the husband's, widower's, or parent's insurance benefits of a man married to a childhood disability beneficiary, if the disabled person's benefits are terminated because she recovers or engages in substantial gainful work, as is now the case for a woman receiving wife's, widow's, or parent's bene-

fits. (Amendments made by section 415 of the bill would provide that benefits of the spouse of a childhood disability beneficiary or disabled worker beneficiary would not terminate for either men or women when the benefits of the disabled beneficiary are terminated.)

Section 408(a) of the bill amends section 202(c)(4) of the Act (added by section 401 of the bill) to provide that the husband's insurance benefits of a man who is married to a childhood disability beneficiary will be terminated if the benefits of the childhood disability beneficiary are terminated because she recovers or engages in substantial gainful work, as is now the case for a woman receiving wife's benefits.

Section 408(b) of the bill amends section 202(f)(4) of the Act to provide that the widower's insurance benefits of a man who is married to a childhood disability beneficiary will be terminated if the benefits of the childhood disability beneficiary are terminated because she recovers or engages in substantial gainful work, as is now the case for a woman receiving widow's benefits.

Section 408(c) of the bill amends section 202(h)(4) of the Act to provide that the benefits of a man receiving aged parent's benefits who is married to a childhood disability beneficiary would be terminated because she recovers or engages in substantial gainful work, as is now the case for a woman receiving parent's benefits.

Section 408(d) of the bill provides that the amendments made by sections 408 (a), (b), and (c) will be effective with respect to terminations of disability benefits occurring after December 1977.

Section 409. Treatment of self-employment income in community property states

Section 409(a) of the bill amends section 211(a)(5) of the Social Security Act and section 1402(a)(5) of the Internal Revenue Code, which relate to the treatment for social security purposes of self-employment income from a trade or business of a married couple in a community property state. Under present law, such self-employment income is credited to the husband unless the wife exercises substantially all of the management and control over the trade or business. The law would be changed to provide that such self-employment income will be credited for social security purposes to the spouse who exercises the greater management and control over the trade or business, except that such income and deductions shall be divided equally between the two spouses if each spouse exercises the same amount of management and control over the trade or business.

Section 409(b) of the bill provides that these amendments will be effective with respect to taxable years beginning after December 1977.

Section 410. Credit for certain military service

Section 410 of the bill amends section 217(f) of the Act, which gives widows and children the right to waive the right to a civil service survivor's annuity and instead to receive credit for military service prior to 1957 in determining eligibility for survivor's benefits or the amount of the benefit, to extend the same right to widowers.

Section 411. Conforming amendments

Section 411(a) of the bill amends section 202(b)(3)(A) of the Act (as amended by section 401(a)(6) of the bill), which relates to con-

tinuation of benefits for divorced wives who marry certain other social security beneficiaries, to allow a divorced wife who marries a man entitled to father's insurance benefits to continue to get benefits. (This section of the Act, which provides an exception to the general rules for terminating benefits upon marriage, will be made unnecessary and therefore repealed effective January 1, 1979, by section 415 of the bill, which eliminates marriage or remarriage as a factor terminating or reducing benefits in all cases.)

Section 411(b) of the bill amends section 202(p)(1) of the Act, which relates to extensions of the period of time for filing proof of support for good cause, by changing the reference to subparagraph (C) of section 202(c)(1) (relating to the support requirement for husband's benefits) to subparagraph (D) of such section to take account of the redesignation of such subparagraph by section 401(a)(2) of the bill. (However, the provisions of the section redesignated as 202(c)(1)(D) were rendered obsolete by the Supreme Court, which, in *Califano v. Abbott* and companion cases, declared unconstitutional the requirement that a man must establish that he received at least one-half of his support from his spouse in the year before she retired, became disabled, or died, in order to become entitled to husband's benefits based on her earnings record.)

Section 411(c) of the bill amends section 202(q)(3) of the Act by adding surviving divorced husbands to the categories of beneficiaries whose old-age or disability insurance benefits are reduced to take account of prior receipt of reduced survivor's benefits.

Section 411(d) of the bill amends section 202(q)(5) of the Act by adding a husband or widower getting benefits on the basis of having a minor or disabled entitled child in his care to the categories of beneficiaries whose benefits will not be actuarially reduced for any month such a beneficiary has such a child in his care.

Section 411(e)(1) of the bill amends section 202(q)(6)(A)(i) of the Act to make present-law provisions relating to certificates of election to receive actuarially reduced wife's insurance benefits, which are included in the law because it provides unreduced benefits to a wife with an entitled minor or disabled child beneficiary in her care, apply also with respect to husbands' insurance benefits, since the bill will provide unreduced benefits for a husband with an entitled minor or disabled child in his care.

Section 411(e)(2) amends subparagraph (B) of section 202(q)(7) to allow a husband or widower (like a wife or widow) who gets reduced benefits because he elected to receive benefits before he reached age 65 to later have his reduced benefits increased by adjusting the reduction period to take account of months the worker's child was in his or her care.

Section 411(f)(1) of the bill amends section 202(s)(1) of the Act to provide a reference to section 202(c)(1) of the Act (which is amended by section 406(d) of the bill to refer to subsection (s)). Taken together, the effect of these changes is to preclude entitlement of a man to husband's insurance benefits before age 62 where the only entitled child he has in his care is getting benefits solely on the basis of being a full-time student, as is now the case with respect to a woman.

Section 411(f) (2) of the bill amends section 202(s) (2) of the Act by adding a reference to section 202(c) (4) (which was added by section 401(a) (4) of the bill to provide that marriage to certain social security beneficiaries will not terminate benefits of divorced husbands). Taken together, the addition of paragraph (4) to section 202(c) and the change made by section 411(f) (2) allow continuation of the benefits of a divorced husband who marries a person age 18 or over entitled to child's insurance benefits only in cases where the child was under a disability. (This provision will be obviated by the provisions of section 415 of the bill, which, effective January 1, 1979, eliminates marriage or remarriage as a factor in terminating or reducing benefits.)

Section 411(f) (3) of the bill amends section 202(s) (3) of the Act to include references to subsection 202(c) (4), as added by section 401(a) (4) and amended by section 408(a) of the bill; and subsection 202(f) (4), as amended by sections 401(b) (5) and 408(b) of the bill.

Section 411(g) of the bill amends section 203(a) (3) of the Act by inserting references to divorced husbands under section 202(c) and surviving divorced husbands under section 202(f). This allows benefits for a divorced husband or surviving divorced husband to be paid without regard to the family maximum benefit provisions, in the same manner as they are paid to a divorced wife or surviving divorced wife under existing law.

Section 411(h) of the bill amends section 203(b) of the Act to insert a reference to father's benefits to provide that the earnings of his retired-worker spouse may result in deductions from a man's father's benefits, as is the case for mother's benefits under existing law.

Section 411(i) of the bill amends section 203(c) of the Act to authorize the Secretary to make deductions from benefits on account of failure to have a child in care to be the same for husbands and fathers as they are under existing law for wives and mothers.

Section 411(j) of the bill amends section 203(d) of the Act to authorize deductions from the benefits of a man getting benefits as a divorced husband or a widower getting father's insurance benefits who is married to a retired worker engaged in noncovered work outside the United States, where such deductions are now authorized for comparable female beneficiaries.

Section 411(k) (1) of the bill amends section 205(b) of the Act (as amended by section 401(d) (1) of the bill), which relates to the procedural rights of individuals applying for benefits, to add surviving divorced fathers to the list of individuals who can request a hearing.

Section 411(k) (2) of the bill amends section 205(c) (1) (C) of the Act (as amended by section 401(d) (2) of the bill) to include a surviving divorced father in the definition of "survivor" for purposes of the provisions of such section 205(c) relating to informing an individual or his survivor of the amounts of such individual's wages and self-employment income and the periods during which such wages were paid and such income was derived, as shown by records maintained by the Secretary.

Section 411(l) of the bill amends section 216(f) of the Act to allow a man who was entitled or potentially entitled to husband's insurance benefits based on the earnings of his former wife in the month before

his marriage to another individual not to have to meet the 1-year duration-of-marriage requirement for husband's insurance benefits based on such other individual's earnings.

Section 411(m) of the bill amends section 216(g) of the Act to allow a man who was entitled or potentially entitled to husband's insurance benefits based on the earnings of his former wife in the month before his marriage to another individual not to have to meet the 1-year duration-of-marriage requirement for widower's insurance benefits based on such other individual's earnings.

Section 411(n) of the bill amends section 222(b)(1) of the Act to authorize deductions from the benefits of a surviving divorced husband under age 60 who is getting benefits based on disability if he refuses to accept rehabilitation services, as is now true for other such disabled dependents.

Section 411(o) of the bill amends section 222(b)(3) of the Act to authorize deductions from the benefits of a man getting benefits as a divorced husband based on the earnings of a disability insurance beneficiary if she refuses to accept rehabilitation services and has deductions made from her benefits (as is now true for other such dependent beneficiaries).

Section 411(p) of the bill amends section 222(b)(2) of the Act to authorize deductions from the benefits of a man entitled to father's insurance benefits who is married to a disability insurance beneficiary if she refuses to accept rehabilitation services and has deductions made from her benefits (as is now true for mother's insurance benefits).

Section 411(q) of the bill amends section 222(d)(1) of the Act by adding surviving divorced husbands to those disabled beneficiaries for whom the costs of rehabilitation services may be paid from the social security trust funds.

Section 411(r) of the bill amends section 223(d)(2) of the Act to make the definition of disability for widows, surviving divorced wives, and widowers, in present law apply to surviving divorced husbands as well.

Section 411(s) of the bill amends section 225 of the Act to extend the Secretary's authority to suspend benefits based on disability if he believes that a person is no longer under a disability, to benefits of a surviving divorced husband (as is now the case for other benefits based on disability).

Section 411(t)(1) of the bill amends sections 226(h)(3) of the Act to provide that, for purposes of entitlement to Medicare hospital insurance benefits, a person entitled to father's insurance benefits will be deemed to have filed for disabled widower's benefits on the basis of his application for hospital insurance benefits, in the same manner as persons entitled to mother's insurance benefits may now be deemed to have filed for disabled widow's benefits.

Section 411(t)(2) of the bill amends section 226(h)(3) of the Act to provide that, for purposes of determining an individual's entitlement to hospital insurance benefits under the preceding section, an individual will, upon furnishing proof of disability within 12 months after enactment, be deemed to have been entitled to widow's or widower's benefits as of the time they would have been entitled if timely application had been made.

Section 412. Effective date

Section 412 provides that the following changes in Part A of Title IV of the bill will be effective with respect to social security benefits for months after December 1977:

1. Provision of benefits for divorced husbands (including surviving divorced husbands).
2. Elimination of remarriage before age 60 as bar to entitlement to widower's benefits.
3. Equalization of definition of illegitimate child with respect to either parent.
4. Provision of benefits for husbands and widowers under transitional insured status.
5. Equalization of payments to each member of a couple under section 228 of the Act (uninsured individuals).
6. Provision of benefits for young fathers (including surviving divorced fathers) and husbands caring for child beneficiaries.
7. Provision allowing widower to waive credit for certain military service.

Part B—Effect of Marriage, Remarriage, and Divorce on Benefit Eligibility

Section 415. Elimination of marriage or remarriage as a factor terminating or reducing benefits

Section 415 of the bill eliminates marriage or remarriage as a factor which bars or terminates entitlement to dependent's or survivor's benefits or reduces the amount of such benefits.

Section 415(a)(1) of the bill amends section 202(b)(1) of the Act by deleting subparagraph (C), which requires that a divorced wife not be remarried in order to become entitled to wife's insurance benefits based on her former husband's social security earnings record, by deleting subparagraph (H), which generally terminates benefits of a divorced wife upon remarriage, and by redesignating the remaining subparagraphs.

Section 415(a)(2) of the bill further amends section 202(b) of the Act by deleting paragraph (3), which permits a divorced wife beneficiary to marry certain other specified dependent or survivor beneficiaries without having her benefits terminated by the marriage (these exceptions to the general termination provision are no longer needed since the general provision is eliminated).

Section 415(b)(1) of the bill amends section 202(c)(1) of the Act (as amended by sections 401(a)(2) and 406(f) of the bill) by deleting subparagraph (C), added by section 401(a)(2), which requires that a divorced husband not be remarried in order to become entitled to husband's insurance benefits based on his former wife's social security earnings record, by deleting subparagraph (I), also added by section 401(a)(2), which generally terminates benefits of a divorced husband upon remarriage, and by redesignating the remaining subparagraphs.

Section 415(b)(2) of the bill further amends section 202(c) of the Act (as amended by sections 401(a)(4) and 408(a) of the bill) by deleting paragraph (4), added by section 401(a)(4), which permits a divorced husband beneficiary to marry certain other specified de-

pendent or survivor beneficiaries without having his benefits terminated by the marriage (these exceptions to the general termination provisions are no longer needed since the general provision is eliminated).

Section 415(b) (3) of the bill amends section 202(c) (2) of the Act (as amended by section 401(a) (5) of the bill) to change a reference to a redesignated subparagraph.

Section 415(c) (1) of the bill amends section 202(d) (1) of the Act by deleting from subparagraph (B) the requirement that a child be unmarried in order to become entitled to child's insurance benefits, and by deleting from subparagraph (D) the provision for generally terminating such benefits upon marriage.

Section 415(c) (2) of the bill further amends section 202(d) of the Act by deleting paragraph (5) (as amended by section 407 of the bill), which permits certain child insurance beneficiaries to marry certain other specified dependent or survivor beneficiaries without having his or her benefits terminated by the marriage (these exceptions to the general termination provision are no longer needed since the general provision is eliminated), and by redesignating the remaining paragraphs.

Section 415(d) (1) of the bill amends section 202(e) (1) of the Act by deleting subparagraph (A), which requires that a widow or surviving divorced wife not be married in order to become entitled to widow's insurance benefits based on her former husband's social security earnings record, by redesignating the remaining subparagraphs, and by changing references to the redesignated subparagraphs.

Section 415(d) (2) of the bill amends section 202(e) (2) (A) of the Act to remove a reference to a deleted paragraph.

Section 415(d) (3) of the bill further amends section 202(e) of the Act by deleting paragraph (3), which permits a widow or surviving divorced wife to marry certain other specified dependent or survivor beneficiaries without having her benefits terminated by the marriage, by deleting paragraph (4), which provides that the widow's insurance benefit for a widow who remarries at or after age 60 is one-half of the primary insurance amount of her deceased husband or former husband (these exceptions to the general termination provision are no longer needed since the general provision is eliminated), and by redesignating the remaining paragraphs.

Section 415(d) (4) of the bill amends section 202(e) of the Act by changing a reference to a redesignated subparagraph.

Section 415(d) (5) of the bill further amends section 202(e) of the Act by changing references to a redesignated subparagraph and paragraph.

Section 415(e) (1) of the bill amends section 202(f) (1) of the act (as amended by sections 401(b) and 402 of the bill) by deleting subparagraph (A), which requires that a widower or surviving divorced husband not be remarried in order to become entitled to widower's insurance benefits based on his former wife's social security earnings record, by deleting the provision for generally terminating such benefits upon remarriage, by redesignating the remaining subparagraphs, and by changing references to the redesignated subparagraphs.

Section 415(e) (2) of the bill amends section 202 (f) (2) of the Act by changing a reference to a redesignated subparagraph.

Section 415(e) (3) amends section 202(f) (3) (A) of the Act by removing a reference to a deleted paragraph.

Section 415(e) (4) of the bill further amends section 202(f) of the Act (as amended by section 401(b) (3) and 401(b) (5) of the bill) by deleting paragraph (4), which permits a widower or surviving divorced husband beneficiary to marry certain other specified dependent or survivor beneficiaries without having his benefits terminated by the marriage, by deleting paragraph (5), which provides that the benefit for a widower or surviving divorced husband who remarries at or after age 60 is one-half of the primary insurance amount of his deceased wife or former wife (these exceptions to the general termination provision are no longer needed since the general provision is eliminated), and by redesignating remaining paragraphs.

Section 415(e) (5) of the bill further amends section 202(f) of the Act by changing a reference to a redesignated subparagraph.

Section 415(e) (6) of the bill amends section 202(f) of the Act by changing references to a redesignated subparagraph and paragraph.

Section 415(f) (1) amends section 202(g) (1) of the Act (as amended by section 406(a) of the bill) by deleting subparagraph (A), which requires that a surviving spouse or surviving divorced spouse not be remarried in order to become entitled to mother's or father's insurance benefits based on his deceased spouse's or former spouse's social security earnings record, by changing a reference to a redesignated subparagraph, by deleting the provision for generally terminating mother's or father's insurance benefits upon remarriage, and by redesignating the remaining subparagraphs.

Section 415(f) (2) of the bill further amends section 202(g) of the Act by deleting paragraph (3), which permits a mother's or a father's insurance beneficiary to marry certain other specified dependent or survivor beneficiaries without having his or her benefits terminated by the marriage (these exceptions to the general provision are no longer needed since the general provision is eliminated).

Section 415(g) (1) of the bill amends section 202(h) (1) of the Act by deleting subparagraph (C), which requires that a parent not have remarried since his deceased child's death in order to become entitled to parent's insurance benefits based on his deceased child's social security earnings record, by deleting the provision for generally terminating such benefits upon remarriage, and by redesignating the remaining subparagraphs.

Section 415(g) (2) of the bill amends section 202(h) (4) of the Act (as amended by section 408(c) of the bill) by deleting paragraph (4), which permits a parent beneficiary to marry certain other specified dependent or survivor beneficiaries without having his benefits terminated by the marriage (these exceptions to the general termination provision are no longer needed since the general provision is eliminated).

Section 415(h) of the bill amends section 202(p) (1) of the Act (as amended by section 411(b) of the bill) by changing the reference to subparagraph (D) of section 202(c) (1) to subparagraph (C) of such section to take account of the redesignation of such subparagraph by section 415(b) (1) of the bill.

Section 415(i) (1) repeals section 202(s) (2) of the Act (as amended by section 411(f) (2)), which restricted that portion of sections 292

(b), (c), (d), (e), (f), (g), and (h), providing that the marriage of certain social security beneficiaries to a child's insurance beneficiary would not terminate their benefits, to cases where the child beneficiary is over age 18 and disabled (this restriction is no longer needed since the general provision is eliminated).

Section 415(i)(2) amends section 202(s)(3) of the Act (as amended by section 411(f)(3) of the bill) by deleting references to subsections 202(b)(3), (c)(4), (d)(5), (e)(3), (f)(4), (g)(3), and (h)(4), which have been deleted by the preceding subsections of this section of the bill.

Section 416. Duration-of-marriage requirement for divorced spouses and surviving divorced spouses

Section 416(a) of the bill amends sections 216(d)(1) and (2) of the Act, which define a divorced wife and a surviving divorced wife, respectively, and sections 216(d)(4) and (5) of the Act as added by section 401 of the bill, which define a divorced husband and surviving divorced husband, respectively, to specify that these definitions can be met if the individual was married to the worker for 5 (rather than 20) years immediately before divorce. The effect of the change is to reduce the duration-of-marriage requirement for aged divorced spouse's and aged or disabled surviving divorced spouse's benefits from 20 years to 5 years.

Sections 416(b) and (c) of the bill amend section 202(b)(1)(F) of the Act (as redesignated by section 415 of the bill) and section 202(c)(1)(G) of the Act (as added by section 401 of the bill and redesignated by section 415 of the bill), respectively, to reduce from 20 years to 5 years the period immediately before divorce that a spouse age 62 or over getting wife's or husband's insurance benefits based on a retired worker's social security earnings record must have been married to the worker in order for their divorce not to terminate entitlement to wife's or husband's benefits.

Section 417. Effective date

Section 417(a) of the bill provides that section 415 of the bill, which eliminates marriage or remarriage as a factor which bars or terminates entitlement to or reduces the amount of dependent's or survivor's benefits, and section 416 of the bill, which reduces the duration-of-marriage requirement for divorced people, will be effective for benefits for months after December 1978, and, in the case of those who are not entitled to benefits of the type involved for December 1978, only on the basis of applications filed on or after January 1, 1979.

Section 417(b) of the bill provides that a person whose entitlement to dependent's or survivor's benefits terminated on account of such person's marriage or remarriage prior to January 1979, or on account of the termination (except by reason of death) of the benefits of his spouse as a childhood disability or disabled worker beneficiary, may become reentitled to such benefits (provided no event that would terminate such entitlement has since occurred) beginning with January 1979, or if later, with the first month after January 1979 in which he applies for such reentitlement.

Section 417(b) also provides that such reentitlement (and other resulting related entitlements) shall be treated as though the reentitlement were the person's initial entitlement.

Part C—Study

Section 421. Study of proposals to eliminate dependency and sex discrimination under the social security program

Section 421(a) of the bill directs the Secretary of Health, Education, and Welfare, in consultation with the Task Force on Sex Discrimination in the Department of Justice, to carry out, within the Department of Health, Education, and Welfare and the Social Security Administration, a detailed study of proposals to eliminate dependency as a factor in entitlement to spouse's social security benefits, and of proposals to bring about equal treatment of men and women in any and all respects under social security. In carrying out this study, the Secretary shall take into account the effects (particularly on women's entitlement to social security benefits) of such things as: changes in the nature and extent of women's labor-force participation, the increasing divorce rate, and the economic value of women's work in the home. The study shall include appropriate cost analyses.

Subsection (b) provides that the Secretary shall submit to Congress, within 6 months of enactment, a full and complete report on the study.

TITLE V—CHANGES IN EARNINGS TEST UNDER THE OLD-AGE, SURVIVORS,
AND DISABILITY INSURANCE PROGRAM

Section 501. Liberalization of earnings test for individuals age 65 and over

Section 501 of the bill amends section 203(f) of the Social Security Act to increase the amount of earnings a beneficiary, age 65 or over, may have in a year and still be paid full benefits for the year. (This provision would not change the exempt amount for beneficiaries under 65.) It also makes a conforming amendment in paragraph (1)(A) of section 203(h) of the Act.

Section 501(a) amends section 203(f)(8)(A) to provide that the automatic adjustment process shall apply to both the exempt amount for beneficiaries under age 65 and the new exempt amount for beneficiaries age 65 and over.

Section 501(b)(1) of the bill amends section 203(f)(8)(B) of the Act, to take account of the new subparagraph (D) added by section 501(b) of the bill.

Section 501(b)(2) of the bill amends section 203(f)(8)(B)(i) of the Act to conform with the concept of the two separate annual exempt amounts.

Section 501(b)(3) of the bill amends section 203(f)(8)(B) of the Act to conform with the concept of two separate annual exempt amounts.

Section 501(c)(1) of the bill amends section 203(f)(8) of the Act by adding new subparagraph (D) which sets the exempt amount for any beneficiary age 65 or over at \$333.33 for each month of any taxable year ending after 1977 and before 1979 and at \$375 for each month of any taxable year ending after 1978 and before 1980. Also section 501(c)(1) of the bill provides that the determination of the exempt amounts for years following 1978, shall take into account the exempt amount for beneficiaries age 65 and over set by section 501(b) of the bill as if the amount had been determined by the automatic adjustment process described in section 203(f)(8) of the Act.

Section 501(c)(2) of the bill provides that determination, publication and notification of the new exempt amount applicable to beneficiaries under age 65, under the automatic adjustment provisions of section 203(f)(8) of the Act shall be required in 1977 and 1978 because the exempt amount set by section 501(c)(1) of the bill applies only to beneficiaries age 65 or over. Section 501(c)(2) of the bill also provides that the annual exempt amount applicable to beneficiaries under 65, for 1978 as determined by the automatic adjustment process will go into effect despite the provisions of section 203(f)(8)(C) of the Act.

Section 501(d) of the bill amends subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of the Act by deleting "\$200 or" and inserting "the applicable exempt amount" since in all cases the amount determined by the process set forth in section 203(f)(8)(B) of the Act will be greater than \$200.

Section 501(e) of the bill provides that these amendments will be effective for taxable years ending after December 1977.

Section 502.—Elimination of monthly earnings test

Section 502(a) of the bill amends Sec. 203(f)(1)(E) of the Social Security Act to eliminate the monthly measure of the retirement test.

The monthly measure will still apply in one limited situation—the year in which a person first receives social security benefits of a particular type (without having received benefits of any other type in the preceding month) which not rendering substantial services in self-employment or earning wages in excess of the exempt amount—but for all other years the annual measure only will be applied.

Section 502(b) of the bill provides that this amendment will apply with respect to monthly benefits payable for months after December 1977.

Section 503. Liberalization of test for determining deductions on account of noncovered work outside the United States

Section 503(a) of the bill amends sections 203(c)(1), (d)(1), and (d)(2) of the Social Security Act by changing, effective with respect to months in taxable years ending after 1977 and before 1979, from 6 to 8 the number of days in a month on which a beneficiary can work in noncovered work outside the United States, without losing his benefit for that month.

Section 503(b) of the bill amends sections 203(c)(1), (d)(1), and (d)(2) of the Act (as amended by subsection (a) of this section) by changing, effective with respect to months in taxable years ending after 1978, from 8 to 11 the number of days in a month on which a beneficiary can work in noncovered work outside the United States without losing his benefit for that month.

TITLE VI—COMBINED SOCIAL SECURITY AND INCOME TAX ANNUAL REPORTING

Part A—Amendments to Title II of the Social Security Act

Section 601. Annual crediting of quarters of coverage

Paragraphs (a)(1) and (a)(2) of section 601 of the bill amend sections 209(g)(3) and 209(j) of the Social Security Act to provide that

remuneration of less than \$100 in a year paid an employee by an employer for services not in the course of the employer's trade or business or for service described in section 210(j) (3) (C) of the Act (relating to home workers) will be excluded from the definition of wages. (Under present law, the remuneration is excluded from wages if it amounts to less than \$50 in a quarter.) Section 601(a) (1) of the bill also amends section 210(a) (17) (A) of the Act to provide that services in the employ of an organization registered or required to register as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization will be excluded from the definition of employment in a year in which the organization is registered or required to register as such an organization. (Under present law, such service is excluded from employment in a quarter in which the organization is required to so register.) Section 601(a) (1) of the bill also amends section 210(f) (4) (B) of the Act to include in the definition of cooperative organization any unincorporated group of farm operators if the number of operators in a group is more than 20 at any time during a year. (Under present law, the definition applies to an unincorporated group of farm operators if the number is more than 20 during a quarter.)

Section 601(a) (3) of the bill changes the basis of the coverage exclusion of employees of certain tax-exempt organizations to the amount of wages paid in a year rather than the amount earned in a year because the annual wage reports will be reports of wages paid rather than earned.

Section 601(a) (3) (A) of the bill adds to section 209 of the Act a new subsection (p) to exclude from the definition of wages remuneration paid by an organization, exempt from income tax under section 501 of the Internal Revenue Code of 1954, in a year if the remuneration is less than \$100.

Section 601(a) (3) (B) of the bill deletes section 210(a) (10) (A) of the Act (which excludes from the definition of employment services performed in a quarter in the employ of an organization exempt from income tax under section 501 of the Code if the remuneration for such service is less than \$50) and redesignates section 201(a) (10) (B) of the Act as section 210(a) (10), and clauses (i) and (ii) of such section as subparagraphs (A) and (B), respectively.

Section 601(b) of the bill redesignates, effective January 1, 1978, section 212 of the Act as section 212(a), redesignates sections 212(a) and 212(b) as sections 212(a) (1) and 212(a) (2), and adds a new section 212(b).

The redesignated section 212(a) (1) of the Act provides that for a taxable year which is a calendar year beginning before 1978, self-employment income will be credited equally to each calendar quarter of the year for purposes of determining average monthly wage and quarters of coverage.

The redesignated section 212(a) (2) of the Act provides that in the case of a taxable year which is not a calendar year beginning before 1978, self-employment income will be credited equally to the calendar quarter in which such year ends and to each of the next three or fewer preceding quarters any part of which is in such year, for purposes of determining average monthly wage and quarters of coverage.

The new section 212(b)(1) of the Act provides that for a taxable year which is a calendar year or wholly within a calendar year beginning after 1977, self-employment income will be credited to such year for purposes of determining a person's average monthly wage or quarters of coverage.

The new section 212(b)(2) of the Act provides that for a taxable year which is not a calendar year beginning after 1977, self-employment income will be allocated proportionately to the two calendar years, portions of which are included within such taxable year, on the basis of the number of months in each such calendar year which are included completely within the taxable year. The calendar month in which such taxable year ends will be treated as completely within that taxable year.

Section 601(c) of the bill amends section 213(a)(2) of the Act effective January 1, 1978, by redesignating section 213(a)(2) as sections 213(a)(2)(A) and 213(a)(2)(B), and adds new sections 213(a)(2)(A)(ii), 213(a)(2)(B)(vi), and 213(a)(2)(B)(vii).

The redesignated section 213(a)(2)(A)(i) of the Act provides that, subject to the provision of subparagraph (B), for calendar years before 1978, a quarter of coverage is a quarter in which a person has been paid at least \$50 (except wages for agricultural labor paid after 1954) or in which he has been credited with \$100 or more in self-employment income.

The new section 213(a)(2)(A)(ii) of the Act provides that, subject to the provisions of subparagraph (B), for calendar years after 1977, a person will be credited with a quarter of coverage for each \$250 of wages paid and self-employment income credited in a year, with the quarters of coverage being assigned to specific calendar quarters only if it was necessary to enable a person to meet the requirements for insured status as prescribed in subsection (a) or (b) of section 214, or for entitlement to a computation or recomputation of his primary insurance amount, or of paragraph (3) of section 216(i).

Sections 213(a)(2)(i), 213(a)(2)(ii), 213(a)(2)(iii), and 213(a)(2)(v) of the Act are redesignated by the bill as section 213(a)(2)(B)(i), 213(a)(2)(B)(ii), 213(a)(2)(B)(iii), and 213(a)(2)(B)(v) respectively, but not otherwise changed.

The redesignated section 213(a)(2)(B)(iv) of the Act as amended by the bill provides that the special rule for determining quarters of coverage for wages paid for agricultural labor will only apply to calendar years after 1954 and before 1978.

The new section 213(a)(2)(B)(vi) of the Act provides that not more than one quarter of coverage may be credited to a calendar quarter.

The new section 213(a)(2)(B)(vii) of the Act provides that not more than four quarters of coverage may be credited in a calendar year after 1977. Section 601(d) of the bill provides that the amendments made by subsection (a) will apply with respect to remuneration paid and services rendered after December 31, 1977, and the amendments made by subsections (b) and (c) will be effective January 1, 1978.

Section 602. Adjustment in amount required for a quarter of coverage

Section 602(a) of the bill amends section 213(a)(2)(A)(ii) of the Social Security Act, as amended by section 601(c) of the bill, to

provide that the amount of wages and self-employment income needed for a quarter of coverage for years after 1977 will be determined under section 213(e) of the Act, as added by the bill.

Section 602(b) of the bill adds to section 213 of the Act new subsections (e) (1) and (e) (2).

The new subsection 213(e) (1) provides that the amount of wages and self-employment income needed for a quarter of coverage in 1978 will be \$250, and for years after 1978 the amount needed will be determined under subsection (e) (2).

The new subsection 213(e) (2) provides that beginning in 1978, and each year thereafter, the Secretary will determine and publish in the Federal Register on or before November 1 the amount of wages and self-employment income which will be required for a quarter of coverage in the following year. The amount required for a quarter of coverage will be the larger of (1) the amount already in effect, or (2) the product of the amount for 1978 (\$250) and the ratio of the average total wages of all workers in the year before the year the Secretary's determination is made to the average total wages of all workers in 1976, rounded to the nearest \$10. (The wage data used to determine the increase in average total wages, as defined in regulations promulgated by the Secretary, will be obtained from reports made to the Secretary of the Treasury. Forms 1040 for 1977 and 1978 will be used in the determination made in 1979, and Forms W-2 for 1978 and later years will be used in the determinations made after 1979. The data will, beginning in 1977, include the reports of wages for employment both covered and not covered under the Social Security Act, and will include wages in excess of the contribution and benefit base. For 1976, appropriate adjustments will be made in the average wage data in covered employment (the only adequate data available) to make it comparable to the broader measure used beginning with 1977.)

Section 602(c) of the bill provides that these amendments will be effective January 1, 1978.

Section 603. Technical and conforming amendments

Section 603(a) (1) of the bill makes an editorial change in section 203(f) (8) (B) (i) of the Social Security Act to clarify it.

Section 603(a) (2) of the bill amends section 203(f) (8) (B) (ii) of the Act to provide that automatic adjustments of the retirement test exempt amount will be based on increases in average yearly wages rather than on increases in wages reported for the first quarter of the year, beginning with the determination to increase the exempt amount in 1980. This corrects a defect in present law which requires the use of first quarter wage data for 1978, which will not be available under present annual reporting provisions. Under the bill, the wage data used to determine the increase in average yearly wages, as defined in regulations promulgated by the Secretary will be obtained from reports made to the Secretary of the Treasury. (Data from Forms 1040 for 1977 and 1978 will be used in determining the exempt amount for 1980, and data form W-2 for 1978 and later years will be used in determining the exempt amount for years after 1980. The data will, beginning in 1977, include the reports of wages for employment both covered and not covered under the Act, and will include wages in excess of the contribution and benefit base.)

Section 603(b) of the bill amends section 218 of the Act pertaining to voluntary agreements for coverage of State and local employees. Although the States are excluded from the change to annual wage reporting and will continue to report covered wages on a quarterly basis, the quarterly wages reported by the States will be compiled by the Social Security Administration and maintained as an annual amount for each employee. This will make it possible to apply the annual quarter-of-coverage measure as provided by the bill to State and local employees. Section 603(b) amends section 218 to make it consistent with this change.

Section 603(b)(1) of the bill amends section 218(c)(8) of the Act to provide that a State may modify its agreement to exclude services performed by election officials or election workers if the remuneration paid was less than \$100 in a year. (Under present law, the services may be excluded if the remuneration is less than \$50 in a calendar quarter.)

Sections 603(b)(2), 603(b)(3), and 603(b)(4) of the bill amend sections 218(q)(4)(B), 218(q)(6)(B), and 218(r)(1) respectively of the Act to make conforming changes in the rules pertaining to time limitations on assessments, credits, and refunds to take account of wages paid in a year rather than wages paid in a quarter.

Section 603(c)(1) amends section 224(a) of the Act by deleting the last sentence, so that the authority of the Secretary to estimate wages in determining the amount of reduction in benefit amounts in certain cases where the beneficiary is also receiving workmen's compensation payments will only apply to years before 1978. (Under annual reporting, a worker's total earnings will be reported on Forms W-2 and processed by the Social Security Administration; therefore, it will not be necessary to estimate the earnings in these cases.)

Section 603(c)(2) amends section 224(f)(2) of the Act, effective January 1, 1979, to provide that the periodic redetermination of the benefit reduction in cases where the worker is also entitled to workmen's compensation will be based on increases in average yearly wages rather than on increases in wages reported for the first quarter of the year. (Under present law, in redetermining the benefit reduction, a person's average current earnings are increased by the ratio of the average of the taxable wages of all persons reported to the Secretary for the first quarter of the year before the year the redetermination is made to the average of such wages for the first quarter of the year before the year the benefit reduction was first computed.) Under the bill, a person's average current earnings will be increased by the ratio of the average of the total wages reported to the Secretary of the Treasury or his delegate for the year before the year the redetermination is made to the average of such wages for 1977, or if later, the year before the year the benefit reduction was first computed. If a benefit reduction was first computed before 1978, the average current earnings will be further increased by the ratio of the average of the taxable wages reported to the Secretary for the first quarter of 1977 to the average of such wages reported for the first quarter of the year before the year the benefit reduction was first computed. The transitional provision is needed since annual wage data is not available for years before 1978.

Section 603(d) of the bill amends section 229(a) of the Act to provide that for years after 1977 a person, who was paid wages for service as a member of a uniformed service, will be deemed to have been paid \$100 for each \$300 of such wages to a maximum of \$1,200 of deemed wages in any calendar year. (Under present law, a person receives wage credits of \$300 in any calendar quarter in which he received pay for such service; the present law rule will continue to apply to calendar quarters after 1955 and before 1978.)

Section 603(e) (1) of the bill amends section 230(b) of the Act by deleting the last sentence in the matter after paragraph (2), which provides a transitional method for automatically adjusting the contribution and benefit base in accordance with increases in quarterly wages for 1978. However, quarterly wage data will not be available for 1978 since annual wages only will be reported beginning in that year.

Section 603(e) (2) of the bill makes an editorial change in section 230(b) (1) of the Act to clarify it.

Section 603(e) (3) of the bill amends section 230(b) (2) of the Act to provide that the contribution and benefit base will be automatically adjusted in accordance with increases in average yearly wages rather than with increases in wages reported for the first quarter of the year, beginning with the determination to increase the base in 1980. (Under present law, the transition from the use of quarterly wages to the use of annual wages to determine the increases in average wages will not be made until the determination to increase the base in 1981.) Under the bill, the wage data used to determine the increase in average yearly wages, defined in regulations promulgated by the Secretary, will be obtained from reports made to the Secretary of the Treasury. (Forms 1040 for 1977 and 1978 will be used in determining the base for 1980, and Forms W-2 for 1978 and later years will be used in determining the base for years after 1980. The data will, beginning in 1977, include the reports of wages for employment both covered and not covered under the Act, and will include wages in excess of the contribution and benefit base.)

Miscellaneous technical and conforming amendments

Section 603(f) (1) of the bill amends section 202(u) (1) (C) of the Act to provide that in the case of a person convicted of certain subversive activities after December 31, 1977, the court may order, in addition to all other penalties provided by law, that wages paid to the person in the year he was convicted or in any prior year be excluded in determining entitlement to social security benefits or the amount of the benefits. (Under present law, wages paid in the calendar quarter of the conviction or any prior calendar quarter may be excluded.)

Sections 603(f) (2) (A) and 603(f) (2) (B) of the bill amend section 205(c) (1) of the Act to redefine the term "period" as a year rather than a quarter, after 1977.

Section 603(f) (2) (C) of the bill amends section 205(o) of the Act which provides that railroad compensation which was remuneration for employment under the Act will be presumed, in the absence of evidence to the contrary, to have been paid in equal proportions with respect to all months in the year in which the employee rendered

services, by limiting the provision to compensation for years before 1978 (prior to annual reporting). Section 603(g) of the bill provides that the amendments made by subsection (b) will apply with respect to remuneration paid after December 31, 1977; the amendments made by subsections (d) and (f)(2) will be effective January 1, 1978; and except as otherwise specifically provided, the remaining amendments made by the section will be effective January 1, 1979.

Part B—Amendments to the Internal Revenue Code of 1954

Section 611. Deduction of Tax from Wages

Section 611(a) of the bill amends section 3102(a) of the Internal Revenue Code of 1954 to provide that an employer may deduct social security taxes from the remuneration paid an employee rendering services not in the course of the employer's trade or business or services described in section 3121(d)(3)(C) of the Code even though the total remuneration paid the employee in the year by the employer is less than \$100. (Under present law, an employer may deduct the taxes even though the total remuneration in a quarter is less than \$50.)

Section 611(b) of the bill amends section 3102(c) of the Code, which pertains to the special rule for deducting from wages the social security tax on tips, to provide that the taxes will be deducted from wages paid and reported on a yearly basis rather than wages paid and reported on a quarterly basis.

Section 611(c) of the bill provides that the amendments will be effective with respect to remuneration paid and to tips received after December 31, 1977.

Section 612. Technical and conforming amendments

Section 612(a) of the bill amends sections 3121(a)(7)(C) and 3121(a)(10) of the Internal Revenue Code [to] of 1954 to conform to amendments made by sections 601(a)(1) and 601(a)(2) of the bill.

Section 612(b) of the bill adds a new section 3121(a)(16) to the Code to conform to the addition to the Social Security Act made by section 601(a)(3)(A) of the bill.

Section 612(c) of the bill amends section 3121(b)(10) of the Code to conform to amendments made by section 601(a)(3)(B) of the bill.

Section 612(d) of the bill amends sections 3121(b)(17)(A) and 3121(g)(4)(B) of the Code to conform to amendments made by section 601(a)(1) of the bill.

Section 612(e) of the bill provides that the amendments will be effective with respect to remuneration paid and services rendered after December 31, 1977.

Part C—Conforming Amendment to the Railroad Retirement Act of 1974

Section 621. Computation of employee annuities

Section 621(a) of the bill amends section 3(f)(1) of the Railroad Retirement Act of 1974 which provides that for purposes of computing railroad retirement annuities, wages covered under social security are assumed to have been paid in equal proportion with respect to all months in the calendar year, by limiting application of the provision to years before 1978 (before annual reporting).

Section 621(b) of the bill provides that the amendment would be effective January 1, 1978.

Section 701. Actuarial reduction of benefit increases to be applied as of time of original entitlement

Section 701(a) of the bill amends section 202(q) (4) of the Act to provide that where a worker's PIA reduced under this subsection is increased, the amount of the reduction—after any adjustment under paragraph (7) for months benefits were not payable after the entitlement month and before age 65 (62 and 65 for widows and widowers)—will be reduced, beginning with the month the PIA increase is effective, as though the increased PIA had been in effect from the first month of entitlement. This change is effective for PIA increases and for increases in benefits after the application of paragraph (7) that are payable for months after December 1977.

Section 701(b) of the bill provides that for beneficiaries entitled to benefits reduced under section 202(q) (1) and (3) prior to January 1978, each time there is an increase in primary insurance amounts the amount of reduction will be increased by the same percentage as the primary insurance amounts are increased. When a person's benefits are increased under paragraph (7) because of months in which he did not receive reduced benefits, the amount of the reduction will be decreased—

(1) for those getting old-age or spouses' benefits, by the ratio of the number of months in the adjusted reduction period to the number of months in the reduction period;

(2) for those getting widows' or widowers' benefits for the month in which they attain age 62 by the ratio of (A) the number of months in the reduction period beginning with age 62 times $19/40$ of 1 percent plus the number of months in the adjusted reduction period prior to age 62, plus the number of months in the adjusted additional reduction period times $43/240$ of 1 percent to (B) the number of months in the reduction period multiplied by $19/40$ of 1 percent plus the number of months in the additional reduction period multiplied by $43/240$ of 1 percent and

(3) for those getting widows' and widowers' insurance benefits for the month in which they attain age 65 by the ratio of (A) the number of months in the adjusted reduction period times $19/40$ of 1 percent, plus the number of months in the adjusted additional reduction period times $43/240$ of 1 percent to (B) the number of months in the reduction period beginning with age 62 times $19/40$ of 1 percent, plus the number of months in the adjusted reduction period prior to age 62 times $19/40$ of 1 percent, plus the number of months in the adjusted additional reduction period by $43/240$ of 1 percent. The amount of any decrease if not a multiple of \$.10 would be rounded to the next lower multiple of \$.10.

Section 701(c) of the bill provides that when a person is entitled to two or more benefits and one or more of them are reduced under this subsection as amended by this Act, subsection (b) of this Act will apply separately to each reduced benefit before the application of section 202(k), which pertains to the method for offsetting benefits when a person is entitled to more than one benefit. Also, paragraph

(4) of this subsection as amended by this Act will continue to operate in conjunction with paragraph (3) of this subsection.

Section 701(d)(1) of the bill amends section 202(q)(7)(C) of the Act to provide that the reduction made in wife's or husband's benefits will be adjusted at age 65 for any months of nonentitlement to those benefits between ages 62 and 65.

Section 701(d)(2) of the bill amends section 202(q)(3)(H) of the Act to provide that a widow's insurance benefit will be reduced under paragraph (1) of this subsection if a widow becomes entitled to an old-age benefit and a widow's benefit in the same month.

TITLE VII—MISCELLANEOUS PROVISIONS

Section 702. Elimination of certain optional payment procedures under the old-age, survivors, and disability insurance program

Section 702 of the bill provides that monthly cash benefits will not be paid retroactively, with certain exceptions, for any month before the month in which the application was filed when such retroactivity would result in permanently reduced benefits.

Section 702(a)(1) amends Section 202(j) of the Social Security Act, which deals with applications for benefits, to provide that entitlement to benefits will be subject to this provision.

Section 702(a)(2) further amends Section 202(j) by adding a new subsection (4). Subsection 4(A) provides that no individual will be entitled to benefits for any month prior to the month in which he filed an application if the effect of the entitlement would be to permanently reduce his monthly benefits.

Subsection 4(B) provides several exceptions to subparagraph (A) :

4(B)(i) exempts an individual for any month in which he or she has a dependent who is entitled to unreduced benefits based on the individual's wage record ;

4(B)(ii) exempts an individual applying for benefits as a disabled surviving spouse or surviving divorced spouse, for any month before he or she attained age 60 ;

4(B)(iii) exempts an individual who in the year in which he files the application had excess earnings (under the retirement test) which could be charged to such prior months.

Section 702(a)(3) amends Section 226(h) of the Act, by adding a new paragraph (e), which provides that, for purposes of determining entitlement to such benefits, an individual entitled to disabled surviving spouse's, or surviving divorced spouse's benefits would also be deemed to be exempted from the limit on retroactivity.

Section 702(b) provides that the amendments made by this section would be effective with respect to applications for benefits under title II of the Social Security Act filed after December 31, 1977.

Section 703. Early mailing of benefit checks where regularly scheduled delivery day falls on Saturday, Sunday, or legal holiday

Section 703(a) of the bill adds a new section, section 708, to title VII of the Social Security Act, which deals with the administration of the programs covered by the Social Security Act.

Section 708(a) requires that, when the date of delivery for either social security or supplemental security income checks falls on a Saturday, Sunday, or legal public holiday, the checks would be delivered on the first day preceding that day which is not a Saturday, Sunday, or legal public holiday, even if delivery would be made before the end of the month for which such checks are issued.

Section 708(b) amends Sections 204 and 1631(b) of the Act, both of which deal with correct payment amounts, to provide that no attempt will be made to recover incorrect payments that occur solely because payment was made early under this provision.

Section 703(b) provides that the amendments made by this section will be effective with benefit checks regularly scheduled for delivery on or after the thirtieth day after enactment of this Act.

Section 704. Definition

Section 704 of the bill defines the term "Secretary," as used in the bill, as the Secretary of Health, Education, and Welfare, unless it is otherwise indicated by the context.

VI. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

In compliance with clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote by your committee on the motion to report the bill, as amended. A total of 23 votes were cast for reporting the bill, a total of 14 votes were cast against reporting the bill.

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the following statement is made relative to oversight findings by your committee. As a result of investigations conducted by the Subcommittee on Social Security, your committee concluded that it is necessary and desirable to enact legislation to ensure adequate financing of the Old Age, Survivors and Disability Insurance programs.

In compliance with clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, your committee states that no oversight findings or recommendations have been submitted to your committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the costs incurred in carrying out this bill. A complete discussion of the costs of the social security program provisions of the bill is contained in section IV of this report, which describes the financing of the amended programs. The following table sets forth the estimated additional income and outgo of the social security trust funds under present law resulting from the provisions of this bill, for fiscal years 1978 through 1983.

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 9346 will not have a significant inflationary impact on the national economy. There are factors working in opposite directions. The

first factor is that the increase in payroll taxes on the employer would likely result in higher consumer prices, to the extent that they would be passed forward to consumers in the form of higher product prices. Counteracting this effect are two opposing factors. The first would be the anti-inflationary effect of higher employee taxes which would decrease consumer demand. The second is that if trust fund outgo was allowed to exceed income by substantial margins, as is currently projected, this increased consumer income would likely result in substantial inflationary pressure. Thus on balance, the Committee believes that net inflationary pressures will be very small or negligible because attempts by firms to raise their product prices to recoup higher employer payroll taxes will be offset by reduced demand for their products.

ESTIMATED ADDITIONAL INCOME AND ADDITIONAL OUTGO OF THE OASI AND DI TRUST FUNDS, COMBINED, OVER PRESENT LAW, RESULTING FROM PROVISIONS OF THE COMMITTEE BILL, FISCAL YEARS, 1978-85

[In billions]

Fiscal year:	Additional income	Additional outgo
1978.....	\$2.2	—\$0.3
1979.....	5.9	.4
1980.....	8.5	.5
1981.....	12.3	.1
1982.....	24.3	— .6
1983.....	31.7	—1.3

Estimated additional income to the HI trust fund over present law, resulting from provisions of the committee bill, fiscal years 1978-83

Fiscal years:	Additional income (billions)
1978.....	—\$1.1
1979.....	—1.3
1980.....	—1.2
1981.....	—0.2
1982.....	2.6
1983.....	4.2

Note: Additional outgo over present law, resulting from provisions of the committee bill, is less than \$50,000,000 in any year.

Your committee's cost estimates relating to the provisions of the bill, which were furnished to the committee by the Department of Health, Education, and Welfare, constitute the best information available at this time.

In compliance with Clause 2(1) (3) (B) of Rule XI of the Rules of the House of Representatives your committee advises that H.R. 9346, as reported by your committee, involves no new or increased tax expenditures, and the new budget authority involved therein is tabulated in the report of the Congressional Budget Office, below.

In compliance with Clause 2(1) (3) (C) of Rule XI of the Rules of the House of Representatives, the cost estimate supplied your committee by the Congressional Budget Office follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 12, 1977.

HON. AL ULLMAN,
Chairman, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 5383, the Social Security Financing Amendments of 1977.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

JAMES BLUM,
(For Alice M. Rivlin, Director.)

CONGRESSIONAL BUDGET OFFICE, COST ESTIMATE

1. Bill number: H.R. 9346.
2. Bill title: Social Security Financing Amendments of 1977.
3. Bill status: As reported by the House Ways and Means Committee, October 12, 1977.
4. Purpose of bill: The primary purposes of this bill are (1) to strengthen the financing of the social security system; (2) to reduce the effect of wage and price fluctuation on the system's benefit structure; (3) to extend compulsory coverage to employees of the federal government, of State and local governments and of nonprofit organizations; (4) to allow higher earnings for social security recipients; (5) to eliminate certain gender based distinctions.
5. Cost estimate:

TITLE I

DIFFERENCE BETWEEN SOCIAL SECURITY REVENUES UNDER CURRENT LAW AND HOUSE WAYS AND MEANS DECISIONS, UNIFIED BUDGET BASIS, MEASURED AS ESTIMATED WAYS AND MEANS REVENUES MINUS CURRENT LAW REVENUES¹

[In billions of dollars]

Item	1978	1979	1980	1981	1982
OASI.....	0	2.1	4.0	6.8	8.8
DI.....	2.3	3.5	4.0	4.6	5.3
OASDI.....	2.3	5.6	8.0	11.4	14.1
HI.....	-1.0	-1.1	-9	.2	.8
OASDHI.....	1.3	4.5	7.1	11.6	14.9

¹ Estimates based on Congressional Budget Office macroeconomic assumptions.

The above table displays the differences between revenues under current law and under the Ways and Means proposal. Total Old Age Survivors Disability Health Insurance (OASDHI) tax rates are not changed from current through calendar year 1980 under the Ways and Means proposal, but are increased above current law beyond 1980. Under the Ways and Means proposal, however, a larger share of OASDHI receipts go into the DI funds than under current law, with the HI fund receiving a smaller share than under current law.

The Ways and Means proposal replaces the mechanism that automatically adjusts the level of the taxable maximum with set levels of taxable maximum. (Similar to current law, each year's taxable maximum applies equally to employers and employees.) The proposed taxable maximums are on average \$7,000 higher than the estimated levels under current law. The affect of this is to increase taxable wages and social security revenues.

Budget authority under the bill would increase by approximately the same amount as receipts in fiscal year 1978. Thereafter, budget authority would increase by more than receipts because of the additional interest income generated by the larger trust fund balances.

TITLES II-VIII.—EFFECTS ON OUTLAYS OF PROPOSED MAJOR PROVISIONS: INCREASES IN OUTLAYS FOR FISCAL YEARS 1978-83

[In billions of dollars]

	1978	1979	1980	1981	1982	1983
Decoupling ¹	0	0	-0.3	-0.7	-1.3	-2.1
Raise exempt amount in retirement test.....	(2)	.2	.2	.2	.3	.3
Limit windfall increases for early retirees.....	0	-.2	-.4	-.7	-.9	-1.2
Expand benefits to divorced spouses.....	0	.2	.2	.2	.2	.2
Elimination of marriage as a bar to benefit entitlement.....	0	1.3	1.4	1.6	1.7	1.9
Elimination of monthly retirement test.....	-.2	-.2	-.2	-.2	-.2	-.3
Elimination of retroactive benefits.....	-.2	-.4	-.5	-.6	-.6	-.6
Total ³	-.4	.9	.4	-.2	-1.8	-2.8

¹ Includes freezing of minimum benefit and increment in delayed retirement credit.

² Less than \$50,000,000.

³ Total includes minor costs and savings of other provisions.

Background for the main estimates is given below.

TITLE II—STABILIZATION OF REPLACEMENT RATES IN THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS

This provision changes the procedure for calculating primary insurance amounts for persons becoming eligible for old-age, survivor or disability benefits, starting January 1, 1979. A 10-year transition period allows new retiree (but not disability or survivor cases) the choice of calculating benefits on the new basis or using the 1979 benefit formula.

The new system is "decoupled" in that primary insurance amounts (PIA's) for new beneficiaries will be determined by a different procedure than will be used to index benefits of existing beneficiaries. For the latter group, benefits will in effect be subject to the same automatic adjustments for changes in the Consumer Price Index as under current law.

Under the new procedure the PIA for new beneficiary awards would be calculated as: 90 percent of the first \$180 of average indexed monthly earnings (AIME), 32 percent of the next \$905 of AIME and 15 percent of AIME over \$1,085. The "bend points" in the formula are to be adjusted (i.e., indexed) each year for changes in average wages. As indicated in the bill the adjustments would be based on changes in "the average of the total wages reported to the Secretary of the Treasury." The precise construction of the average of the total

wages is not specified by the bill, but is to be defined in regulations of the Secretary of Health, Education, and Welfare.

Because of the dependence on "wage indexing" in the new procedure, it is difficult to estimate the effects on costs of the new decoupled formula without knowing how "the average of the total wages" would be measured. One interpretation would be that an actual wage index would be constructed in a manner analogous to that of the Consumer Price Index. Such an index would be adjusted for changes in the experience and skill of the work force and would be unaffected by changes in hours and weeks worked per worker. Another interpretation of the bill would be that total wages would be the sum of wages subject to withholding, as reported to the Internal Revenue Service, and divided by the number of individuals reported on the withholding statements. In this case the change in average wages could be quite unpredictable and would be affected by factors such as changes in hours and weeks worked per individual and by changes in the rate of job turnover (since the number of different employees each wage earner works for would affect the total number of workers as reported by employers on their W-2 forms).

In addition to the provision for decoupling, the new benefit computation procedure provides that the regular minimum benefit would be frozen at the level in effect at the end of 1978 and that retirement benefits would be increased by 3 percent (instead of 1 percent as in current law) for each year retirement is delayed beyond the age of 65 and up to the age of 72.

The actuaries of the Social Security Administration have made the above estimates of the effect of decoupling (including the changes in the minimum benefit and the delayed retirement increment). The actuaries' estimates assume that for purposes of implementing the decoupling proposal "average earnings" would increase at a rate consistent with that shown in the 1977 trustees' report. The new benefit formula yields a saving over current law because under the trustees' assumptions of future inflation, the relation between benefits and past earnings would rise faster than under the provisions of the bill.

TITLE III—COVERAGE UNDER OASDI

The bill extends mandatory coverage to employees of the federal government and to those employees of state and local governments and of nonprofit organizations who are not now covered. The provision is to take effect in 1982. The way in which the civil service retirement system and social security would be integrated is not specified in the bill but is to be the subject of a study made by the Secretary of Health, Education, and Welfare. The study would be expected to provide a plan by 1980.

Until the details of a plan are given it is not possible to estimate the potential costs or savings to the system or to the federal budget of extending social security coverage.

Other provisions of Title III would have negligible effects on revenues and outlays over the next five years.

TITLE IV—ELIMINATION OF GENDER-BASED DISTINCTIONS UNDER OASDI

The provisions of Part A which equalize the treatment of men and women with respect to different aspects of benefit eligibility would

have a minor effect on outlays, increasing them by less than \$5 million a year.

Part B would add two provisions with cost implications. The bill eliminates marriage or remarriage as a factor terminating or reducing benefits. For example, under current law a widow or widower who remarries loses eligibility for survivor benefits. The bill would allow such cases to retain survivor benefits after remarriage as long as other conditions of eligibility for survivor benefits were met. In addition, the bill reduces from 20 years to 5 years the duration-of-marriage requirement for divorced spouses of retired or deceased workers with respect to eligibility for spouse or survivor benefits.

The estimates were developed in the following way. It is known that there are about 400,000 married aged women who had been widows before remarriage. Not all would benefit under the new law since the widow's own benefit as a worker or her spouse benefit on her new husband's record could exceed her survivor's benefit on the deceased husband's record. It is known that about 69 thousand remarried widows in 1977 were receiving spouse benefits on their deceased husbands' records which they can now do under current law. This group would under the new law roughly double their benefits at a cost of about \$120 million in 1979. In addition, it was assumed that another 200 thousand aged remarried widows would become eligible for the difference between their spouse benefits (or worker benefits) and their survivor benefits at an estimated cost of \$260 million in 1979. Based on historical data on the number of terminations of benefits each year for widowed mothers (and children) because of remarriage (or marriage) it was estimated that an additional 350 thousand persons would qualify for benefits under the bill who would have had benefits terminated under current law. Additional costs for this group are estimated at about \$850 million in 1979. Estimates on the provision for divorced spouses and survivors are those of the SSA actuaries.

TITLE V—CHANGE IN THE EARNINGS TEST

The bill would raise to \$4,000 in 1978 and to \$4,500 in 1979 the amount of earnings a beneficiary aged 65 to 72 years may have without losing any retirement benefits. Under current law these amounts are projected to be \$3,240 in 1978 and \$3,480 in 1979. After 1979, the exempt amount would rise based on the rise in annual earnings.

The estimate was based on files showing the earnings and potential benefits of persons aged 65 and over in 1973 and 1975. It was assumed that the relation between earnings and benefits would remain the same over time although the level of earnings and benefits would rise in accordance with CBO assumptions about wage increases and increases in the CPI. Because of the increase in the exempt amount some individuals who have lost all benefits would receive a benefit and many would receive higher benefits. The estimated increases in outlays are shown in the summary table above.

5. Estimate comparison: None.
6. Previous CBO estimate: None.
7. Estimate prepared by: June O'Neill.
8. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

SOCIAL SECURITY ACT

* * * * *

TITLE II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND FEDERAL DISABILITY INSURANCE TRUST FUND

SECTION 201. (a) * * *

(b) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Disability Insurance Trust Fund". The Federal Disability Insurance Trust Fund shall consist of such gifts and bequests as may be made as provided in subsection (i) (1), and of such amounts as may be appropriated to, or deposited in, such fund as provided in this section. There is hereby appropriated to the Federal Disability Insurance Trust Fund for the fiscal year ending June 30, 1957, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) (A) $\frac{1}{2}$ of 1 per centum of the wages (as defined in section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1956, and before January 1, 1966, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, (B) 0.70 of 1 per centum of the wages (as so defined) paid after December 31, 1965, and before January 1, 1968, and so reported, and (C) 0.95 of 1 per centum of the wages (as so defined) paid after December 31, 1967, and before January 1, 1970, and so reported, (D) 1.10 per centum of the wages (as so defined) paid after December 31, 1969, and before January 1, 1973, and so reported, (E) 1.1 per centum of the wages (as so defined) paid after December 31, 1972, and before January 1, 1974, and so reported, (F) 1.15 per centum of the wages (as so defined) paid after December 31, 1973, and before January 1, 1978, and so reported, [(G) 1.2 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1981, and so reported, (H) 1.3 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1986 and so reported, (I) 1.4 per centum of the wages (as so defined) paid after December 31, 1985, and before January 1, 2011, and so reported, and (J) 1.7 per centum of the wages (as so defined) paid after December 31, 2010, and so reported.]
(G) 1.55 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, (H)

1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1981, and so reported, (I) 1.60 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1985, and so reported, (J) 1.80 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (K) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and

(2) (A) $\frac{3}{8}$ of 1 per centum of the amount of self-employment income (as defined in section 1402 of the Internal Revenue Code of 1954) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of the Internal Revenue Code of 1954 for any taxable year beginning after December 31, 1956, and before January 1, 1966, (B) and 0.525 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1965, and before January 1, 1968, and (C) 0.7125 of 1 per centum of the amount of employment income (as so defined) so reported for any taxable year beginning after December 31, 1969, and before January 1, 1973, (E) 0.795 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1972, and before January 1, 1974, (F) 0.815 of 1 per centum of the amount of self-employment income (as so defined) as reported for any taxable year beginning after December 31, 1973, and before January 1, 1978, (G) 0.850 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1981, (H) 0.920 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1986, (I) 0.990 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1985, and before January 1, 2011, and (J) 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2010, (G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, (H) 1.055 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1981, (I) 1.200 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1985, (J) 1.350 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990 and (K) 1.650 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31,

1989, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

* * * * *

(j)(l) *If at the close of any calendar year after 1977 the balance remaining in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund (as determined by the Secretary of the Treasury in the following February) is less than 25 percent of the total amount of the expenditures made from such fund under this title during that calendar year, there is hereby appropriated to the Secretary of the Treasury for loans to such fund, out of any moneys in the Treasury not otherwise appropriated, as of the following July 1, an amount equal to the difference between (A) such balance, and (B) 27½ percent of the total amount of such expenditures.*

(2) *If at the close of any calendar year succeeding a calendar year with respect to which an appropriation for loans to either trust fund is made under paragraph (1)—*

(A) the balance remaining in that fund (as determined by the Secretary of the Treasury in the following February) is less than 35 percent of the total amount of the expenditures made from such fund under this title during such succeeding calendar year (whether or not an appropriation for loans to such fund is made under paragraph (1) with respect to such succeeding year), and

(B) the outstanding balance of all loans (including accumulated interest) which were made to such fund under paragraph (1) with respect to calendar years before such succeeding year (and which have not been repaid to the Treasury under paragraph (3)) is \$2,000,000,000 or more,

the taxes imposed by sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 with respect to wages received or paid (and taxable years beginning) in the second calendar year after such succeeding year shall be increased as provided in section 3125 of such Code.

(3) *Any amount appropriated for loans to either trust fund with respect to any calendar year under paragraph (1) shall be repaid, with interest, by transfer from such fund to the general fund of the Treasury. A repayment of such amount shall be made on July 1 next succeeding any subsequent calendar year at the close of which (as determined by the Secretary of the Treasury in the following February) the balance remaining in such fund exceeds 30 percent of the total amount of the expenditures made from such fund under this title during that calendar year, and any such repayment shall be in an amount equal to the difference between (A) such balance, and (B) 30 percent of the total amount of such expenditures. Interest on any such loan shall be at a rate, as determined by the Secretary of the Treasury, equal to the average market yield on the outstanding marketable obligations of the United States of comparable maturities at the time the loan was made.*

OLD-AGE AND SURVIVORS INSURANCE BENEFIT PAYMENTS

Old-Age Insurance Benefits

SEC. 202. (a) * * *

* * * * *

Wife's Insurance Benefits

(b) (1) The wife (as defined in section 216(b)) and every divorced wife (as defined in section 216(d)) of an individual entitled to old-age or disability insurance benefits, if such wife or such divorced wife—

(A) has filed application for wife's insurance benefits,

(B) has attained age 62 or (in the case of a wife) has in her care (individually or jointly with such individual) at the time of filing such application a child entitled to a child's insurance benefit on the basis of the wages and self-employment income of such individual, *and*

[(C) in the case of a divorced wife, is not married, and]

[(D)] (C) is not entitled to old-age or disability insurance benefits or is entitled to old-age or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of such individual,

shall (subject to subsection (s)) be entitled to a wife's insurance benefit for each month beginning with the first month in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs—

[(E)] (D) she dies,

[(F)] (E) such individual dies,

[(G)] (F) in the case of a wife, they are divorced and either (i) she has not attained age 62, or (ii) she has attained age 62 but has not been married to such individual for a period of [20] 5 years immediately before the date the divorce became effective,

[(H) in the case of a divorced wife, she marries a person other than such individual,]

[(I) (G) in the case of a wife who has not attained age 62, no child of such individual is entitled to a child's insurance benefit,

[(J)] (H) she becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

[(K)] (I) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

(2) Except as provided in subsection (q), such wife's insurance benefit for each month shall be equal to one-half of the primary insurance amount of her husband (or, in the case of a divorced wife, her former husband) for such month.

[(3) In the case of any divorced wife who marries—

[(A) an individual entitled to benefits under subsection [f] (c), (f), (g), or (h), of this section, or

[(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d), such divorced wife's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) (but subject

to subsection (s)), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless he ceases to be so entitled by reason of his death.】

Husband's Insurance Benefits

(c)(1) The husband (as defined in section 216(f)) *and every divorced husband (as defined in section 216(d))* of an individual entitled to old-age or disability insurance benefits, if such husband *or such divorced husband*—

(A) has filed application for husband's insurance benefits,

(B) has attained age 62 *or (in the case of a husband) has in his care (individually or jointly with such individual) at the time of filing such application a child entitled to child's insurance benefits on the basis of the wages and self-employment income of such individual,*

(C) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual—

(i) if she had a period of disability which did not end prior to the month in which she became entitled to old-age or disability insurance benefits, at the beginning of such period or at the time she became entitled to such benefits, or

(ii) if she did not have such a period of disability, at the time she became entitled to such benefits,

and filed proof of such support within two years after the month in which she filed application with respect to such period of disability or after the month in which she became entitled to such benefits, as the case may be, or, if she did not have such a period, two years after the month in which she became entitled to such benefits, and

(D) is not entitled to old-age or disability insurance benefits, or is entitled to old-age or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of [his wife] *such individual;*

shall (subject to subsection (s)) be entitled to a husband's insurance benefit for each month, beginning with the first month [after August 1950] in which he becomes so entitled to such insurance benefits and ending with the month preceding [the month in which any of the following occurs: he dies, his wife dies, they are divorced, or he becomes entitled to an old-age or disability insurance benefit, based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of his wife, or his wife is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits] *the first month in which any of the following occurs:*

(E) *he dies,*

(F) *such individual dies,*

(G) *in the case of a husband, they are divorced and either (i) he has not attained age 62, or (ii) he has attained age 62 but has*

not been married to such individual for a period of 5 years immediately before the divorce became effective,

(H) in the case of a husband who has not attained age 62, no child of such individual is entitled to a child's insurance benefit,

(I) he becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

(J) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

(2) The provisions of subparagraph (c) of paragraph (1) shall (subject to subsection (s)) not be applicable in the case of any husband who—

(A) in the month prior to the month of his marriage to such individual was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (f) or (h);

(B) in the month prior to the month of his marriage to such individual had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d); or

(C) in the month prior to the month of his marriage to such individual he was entitled to, or on application therefor and attainment of the required age (if any) would have been entitled to, a widower's child's (after attainment of age 18), or parent's insurance annuity under section 5 of the Railroad Retirement Act of 1937, as amended.

(3) Except as provided in subsection (q), such husband's insurance benefit for each month shall be equal to one-half of the primary insurance amount of his wife (*or, in the case of a divorced husband, his former wife*) for such month.

Child's Insurance Benefits

(d) (1) Every child (as defined in section 216(e)) of an individual entitled to old-age or disability insurance benefits, or of an individual who dies a fully or currently insured individual if such child—

(A) has filed application for child's insurance benefits,

(B) at the time such application was filed [was unmarried and]

(i) either had not attained the age of 18 or was a full-time student and had not attained the age of 22, or (ii) is under a disability (as defined in section 223(d)) which began before he attained the age of 22, and

(C) was dependent upon such individual—

(i) if such individual is living, at the time such application was filed,

(ii) if such individual has died, at the time of such death, or

(iii) if such individual had a period of disability which continued until he became entitled to old-age or disability insurance benefits, or (if he has died) until the month of his

death, at the beginning of such period of disability or at the time he became entitled to such benefits,

shall be entitled to a child's insurance benefit for each month, beginning with the first month after August 1950 in which such child becomes so entitled to such insurance benefits and ending with the month preceding whichever of the following first occurs—

(D) the month in which such child dies, [or marries,]

(E) the month in which such child attains the age of 18, but only if he (i) is not under a disability (as so defined) at the time he attains such age, and (ii) is not a full-time student during any part of such month.

* * * * *

[(5) In the case of a child who has attained the age of eighteen and who marries—

[(A) an individual entitled to benefits under subsection (a), (b), (e), (f), (g), or (h) of this section or under section 223(a), or

[(B) another individual who has attained the age of eighteen and is entitled to benefits under this subsection,

such child's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that, in the case of such a marriage to [a male] an individual entitled to benefits under section 223(a) or this subsection, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 223(a) or this subsection unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 223(a), he is entitled, for the month following such last month, to benefits under subsection (a) of this section.]

[6] (5) A child whose entitlement to child's insurance benefits on the basis of the wages and self-employment income of an insured individual terminated with the month preceding the month in which such child attained the age of 18, or with a subsequent month, may again become entitled to such benefits (provided no event specified in paragraph (1)(D) has occurred) beginning with the first month thereafter in which he—

(A) (i) is a full-time student or is under a disability (as defined in section 223(d), and (ii) had not attained the age of 22, or

(B) is under a disability (as so defined) which began before the close of the 84th month following the month in which his most recent entitlement to child's insurance benefits terminated because he ceased to be under such disability,

but only if he has filed application for such reentitlement. Such reentitlement shall end with the month preceding whichever of the following first occurs:

(C) the first month in which an event specified in paragraph (1)(D) occurs;

(D) the earlier of (i) the first month during no part of which he is a full-time student, or (ii) the month in which he attains the

age of 22, but only if he is not under a disability (as so defined) in such earlier month; or

(E) if he was under a disability (as so defined), the third month following the month in which he ceases to be under such disability or (if later) the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22.

[7] (6) For the purposes of this subsection—

(A) A “full-time student” is an individual who is in full-time attendance as a student at an educational institution, as determined by the Secretary (in accordance with regulations prescribed by him) in the light of the standards and practices of the institutions involved, except that no individual shall be considered a “full-time student” if he is paid by his employer while attending an educational institution at the request, or pursuant to a requirement, of his employer.

(B) Except to the extent provided in such regulations, an individual shall be deemed to be a full-time student during any period of nonattendance at an educational institution at which he has been in full-time attendance if (i) such period is 4 calendar months or less, and (ii) he shows to the satisfaction of the Secretary that he intends to continue to be in full-time attendance at an educational institution immediately following such period. An individual who does not meet the requirement of clause (ii) with respect to such period of nonattendance shall be deemed to have met such requirement (as of the beginning of such period) if he is in full-time attendance at an educational institution immediately following such period.

(C) An “educational institution” is (i) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof, or (ii) a school or college or university which has been approved by a State or accredited by a State-recognized or nationally-recognized accrediting agency or body, or (iii) a non-accredited school or college or university whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

(D) A child who attains age 22 at a time when he is a full-time student (as defined in subparagraph (A) of this paragraph and without the application of subparagraph (B) of such paragraph) but has not (at such time) completed the requirements for, or received, a degree from a four-year college or university shall be deemed (for purposes of determining whether his entitlement to benefits under this subsection has terminated under paragraph (1)(F) and for purposes of determining his initial entitlement to such benefits under clause (i) of paragraph (1)(B)) not to have attained such age until the first day of the first month following the end of the quarter or semester in which he is enrolled at such time (or, if the educational institution (as defined in this paragraph) in which he is enrolled is not operated on a quarter

or semester system, until the first day of the first month following the completion of the course in which he is so enrolled or until the first day of the third month beginning after such time, whichever first occurs).

[8](7) In the case of—

(A) An individual entitled to old-age insurance benefits (other than an individual referred to in subparagraph (B)), or

(B) an individual entitled to disability insurance benefits, or an individual entitled to old-age insurance benefits who was entitled to disability insurance benefits for the month preceding the first month for which he was entitled to old-age insurance benefits,

a child of such individual adopted after such individual became entitled to such old-age or disability insurance benefits shall be deemed not to meet the requirements of clause (i) or (iii) of paragraph (1) (C) unless such child—

(C) is the natural child or stepchild of such individual (including such a child who was legally adopted by such individual), or

(D) (i) was legally adopted by such individual in an adoption decreed by a court of competent jurisdiction within the United States,

(ii) was living with such individual in the United States and receiving at least one-half of his support from such individual (I) if he is an individual referred to in subparagraph (A), for the year immediately before the month in which such individual became entitled to old-age insurance benefits or, if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, the month in which such period of disability began, or (II) if he is an individual referred to in subparagraph (B), for the year immediately before the month in which began the period of disability of such individual which still exists at the time of adoption (or, if such child was adopted by such individual after such individual attained age 65, the period of disability of such individual which existed in the month preceding the month in which he attained age 65), or the month in which such individual became entitled to disability insurance benefit, or (III) if he is an individual referred to in either subparagraph (A) or subparagraph (B) and the child is the grandchild of such individual or his or her spouse, for the year immediately before the month in which such child files his or her application for child's insurance benefits, and

(iii) had not attained the age of 18 before he began living with such individual.

In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for substantially all of the period which begins on the date of birth of such child.

[(9)] (8) (A) A child who is a child of an individual under clause (3) of the first sentence of section 216(e) and is not a child of such individual under clause (1) or (2) of such first sentence shall be deemed not to be dependent on such individual at the time specified in subparagraph (1)(C) of this subsection unless (i) such child was living with such individual in the United States and receiving at least one-half of his support from such individual (I) for the year immediately before the month in which such individual became entitled to old-age insurance benefits or disability insurance benefits or died, or (II) if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, or disability insurance benefits, or died, for the year immediately before the month in which such period of disability began, and (ii) the period during which such child was living with such individual began before the child attained age 18.

(B) In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for substantially all of the period which begins on the date of such child's birth.

Widow's Insurance Benefits

(e) (1) The widow (as defined in section 216(c)) and every surviving divorced wife (as defined in section 216(d)) of an individual who died a fully insured individual, if such widow or such surviving divorced wife —

[(A) is not married,]

[(B)] (A) (i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 223(d)) which began before the end of the period specified in paragraph [(5)] (3),

[(C)] (B) (i) has filed application for widow's insurance benefits, or was entitled to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which he died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) or section 223, or

(ii) was entitled, on the basis of such wages and self-employment income, to mother's insurance benefits for the month preceding the month in which she attained age 65, and

[(D)] (C) is not entitled to old-age insurance benefits or is entitled to old-age insurance benefits each of which is less than the primary insurance amount of such deceased individual, shall be entitled to a widow's insurance benefit for each month, beginning with—

[(E)] (D) if she satisfies subparagraph [(B)] (A) by reason of clause (i) thereof, the first month in which she becomes so entitled to such insurance benefits, or

[(F)] (E) if she satisfies subparagraph [(B)] (A) by reason of clause (ii) thereof—

(i) the first month after her waiting period (as defined in paragraph [(6)] (4)) in which she becomes so entitled to such insurance benefits, or

(ii) the first month during all of which she is under a disability and in which she becomes so entitled to such insurance benefits, but only if she was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph [(5)] (3) and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: she [remarries,] dies, or becomes entitled to an old-age insurance benefit equal to or exceeding the primary insurance amount of such deceased individual, or, if she became entitled to such benefits before she attained age 60, the third month following the month in which her disability ceases (unless she attains age 65 on or before the last day of such third month).

(2) (A) Except as provided in subsection (q) [, paragraph (4) of this subsection,] and subparagraph (B) of this paragraph, such widow's insurance benefit for each month shall be equal to the primary insurance amount of such deceased individual.

(B) If the deceased individual (on the basis of whose wages and self-employment income a widow or surviving divorced wife is entitled to widow's insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q), the widow's insurance benefit of such widow or surviving divorced wife for any month shall, if the amount of the widow's insurance benefit of such widow or surviving divorced wife (as determined under subparagraph (A) and after application of subsection (q)) is greater than—

(i) the amount of the old-age insurance benefit to which such deceased individual would have been entitled (after application of subsection (q)) for such month if such individual were still living, and

(ii) 82½ percent of the primary insurance amount of such deceased individual,

be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii).

[(3) In the case of a widow or surviving divorced wife who marries—

[(A) an individual entitled to benefits under subsection (c), (f), or (h) of this section, or

[(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

such widow's or surviving divorced wife's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such bene-

fits under subsection (d) unless he ceases to be so entitled by reason of his death.

[(4)] If a widow, after attaining the age of 60, marries an individual (other than one described in subparagraph (A) or (B) of paragraph (3)), such marriage shall, for purposes of paragraph (1), be deemed not to have occurred; except that notwithstanding the provisions of paragraph (2) and subsection (q), such widow's insurance benefit for the month in which such marriage occurs and each month thereafter prior to the month in which the husband dies or such marriage is otherwise terminated, shall be equal to one-half of the primary insurance amount of the deceased individual on whose wages and self-employment income such benefit is based;]

[(5)] (3) The period referred to in paragraph (1) [(B)] (A) (ii), in the case of any widow or surviving divorced wife, is the period beginning with whichever of the following is the latest:

(A) the month in which occurred the death of the fully insured individual referred to in paragraph (1) on whose wages and self-employment income her benefits are or would be based, or

(B) the last month for which she was entitled to mother's insurance benefits on the basis of the wages and self-employment income of such individual, or

(C) the month in which a previous entitlement to widow's insurance benefits on the basis of such wages and self-employment income terminated because her disability had ceased.

and ending with the month before the month in which she attains age 60, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

[(6)] (4) The waiting period referred to in paragraph (1) [(F)] (E), in the case of any widow or surviving divorced wife, is the earliest period of five consecutive calendar months—

(A) throughout which she has been under a disability, and

(B) which begins not earlier than with whichever of the following is the later: (i) the first day of the seventeenth month before the month in which her application is filed, or (ii) the first day of the fifth month before the month in which the period specified in paragraph [(5)] (3) begins.

[(7)] (5) In the case of an individual entitled to monthly insurance benefits payable under this section for any month prior to January 1973 whose benefits were not redetermined under section 102(g) of the Social Security Amendments of 1972, such benefits shall not be redetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 215(i) (3)) or any increase in benefits made under or pursuant to section 215(i), including for this purpose the increase provided effective for March 1974, as though such redetermination had been made.

Widower's Insurance Benefits

(f) (1) The widower (as defined in section 216(g)) *and every surviving divorced husband (as defined in section 216(d))* of an individual who died a fully insured individual, if such widower *or such surviving divorced husband*—

[(A) has not remarried,]

[(B)](A) (i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 223(d)) which began before the end of the period specified in paragraph [(6).](4),

[(C)](B) (i) has filed application for widower's insurance benefits or was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which she died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) or section 223, or

(ii) *was entitled, on the basis of such wages and self-employment income, to father's insurance benefits for the month preceding the month in which he attained age 65,*

[(D)](C) (i) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual at the time of her death or, if such individual had a period of disability which did not end prior to the month in which she died, at the time such period began or at the time of her death, and filed proof of such support within two years after the date of such death, or, if she had such a period of disability, within two years after the month in which she filed application with respect to such period of disability or two years after the date of such death, as the case may be, or (ii) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary from such individual at the time she became entitled to old-age or disability insurance benefits or, if such individual had a period of disability which did not end prior to the month in which she became so entitled, at the time such period began or at the time she became entitled to such benefits, and filed proof of such support within two years after the month in which she became entitled to such benefits, or, if she had such a period of disability, within two years after the month in which she filed application with respect to such period of disability or two years after the month in which she became entitled to such benefits, as the case may be,

[(E)](D) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than the primary insurance amount of [his deceased wife.] *such deceased individual,*

shall be entitled to a widower's insurance benefit for each month, beginning with—

[(F)](E) if he satisfies subparagraph [(B)](A) by reason of clause (i) thereof, the first month in which he becomes so entitled to such insurance benefits, or

[(G)](F) if he satisfies subparagraph [(B)](A) by reason of clause (ii) thereof—

(i) the first month after his waiting period (as defined in paragraph [(7)](5)) in which he becomes so entitled to such insurance benefits, or

(ii) the first month during all of which he is under a disability and in which he becomes so entitled to such insurance

benefits, but only if he was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph [(6)] (4) and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: he [remarries,] dies, or becomes entitled to an old-age insurance benefit equal to or exceeding the primary insurance amount of [his deceased wife,] *such deceased individual*, or, if he became entitled to such benefits before he attained age 60, the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month).

(2) The provisions of subparagraph [(D)] (C) of paragraph (1) shall (subject to subsection (s)) not be applicable in the case of any individual who—

(A) in the month prior to the month of his marriage to such individual was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under this subsection or subsection (h);

(B) in the month prior to the month of his marriage to such individual had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d); or

(C) in the month prior to the month of his marriage to such individual he was entitled to, or on application therefor and attainment of the required age (if any), would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 5 of the Railroad Retirement Act of 1937, as amended.

(3) (A) Except as provided in subsection (q) [, paragraph (5), of this subsection,] and subparagraph (B) of this paragraph, such widower's insurance benefit for each month shall be equal to the primary insurance amount of [his deceased wife] *such deceased individual*.

(B) If the deceased [wife] (on the basis of whose wages and self-employment income a widower *or surviving divorced husband* is entitled to widower's insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q), the widower's insurance benefit of such widower *or surviving divorced husband* for any month shall, if the amount of the widower's insurance benefit of such widower *or surviving divorced husband* (as determined under subparagraph (A) and after application of subsection (q)) is greater than—

(i) the amount of the old-age insurance benefit to which such deceased [wife] *individual* would have been entitled (after application of subsection (q)) for such month if such [wife] *individual* were still living; and

(ii) 82½ percent of the primary insurance amount of such deceased [wife] *individual*;
be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii).

[(4) In the case of a widower *or surviving divorced husband* who marries—

[(A) an individual entitled to benefits under subsection (b), (e), (g), or (h), or

[(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d), such widower's *or surviving divorced husband's* entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; *except that, in the case of such a marriage to an individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless she ceases to be so entitled by reason of her death.*]

[(5) If a widower, after attaining the age of 60, marries an individual (other than one described in subparagraph (A) or (B) of paragraph (4)), such marriage shall, for purposes of paragraph (1), be deemed not to have occurred; except that, notwithstanding the provisions of paragraph (3) and subsection (q), such widower's insurance benefit for the month in which such marriage occurs and each month thereafter prior to the month in which the wife dies or such marriage is otherwise terminated, shall be equal to one-half of the primary insurance amount of the deceased individual on whose wages and self-employment income such benefit is based.]

[(6)] (4) The period referred to in paragraph (1) [(B)] (A) (ii), in the case of any widower *or surviving divorced husband*, is the period beginning with whichever of the following is the latest:

(A) the month in which occurred the death of the fully insured individual referred to in paragraph (1) on whose wages and self-employment income his benefits are or would be based,

[or]

(B) the month in which a previous entitlement to widower's insurance benefits on the basis of such wages and self-employment income terminated because his disability had ceased, or

(C) *the last month for which he was entitled to father's insurance benefits on the basis of the wages and self-employment income of such individual,*

and ending with the month before the month in which he attains age 60, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

[(7)] (5) The waiting period referred to in paragraph (1) [(G)] (F), in the case of any widower *or surviving divorced husband*, is the earliest period of five consecutive calendar months—

(A) throughout which he has been under a disability, and

(B) which begins not earlier than with whichever of the following is the later: (i) the first day of the seventeenth month before the month in which his application is filed, or (ii) the first day of the fifth month before the month in which the period specified in paragraph [(6)] (4) begins.

[(8)] (6) In the case of an individual entitled to monthly insurance benefits payable under this section for any month prior to January 1973 whose benefits were not redetermined under section 102(g) of

the Social Security Amendments of 1972, such benefits shall not be redetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 215(i)(3)) or any increase in benefits made under or pursuant to section 215(i), including for this purpose the increase provided effective for March 1974, as though such redetermination had been made.

Mother's and Father's Insurance Benefits

(g)(1) The **[widow]** *surviving spouse* and every surviving divorced **[mother]** *parent* (as defined in section 216(d)) of an individual who died a fully or currently insured individual, if such **[widow]** *surviving spouse* or surviving divorced **[mother]** *parent*—

[(A)] is not married,

[(B)] (A) is not entitled to a **[widow]** *surviving spouse's* insurance benefit,

[(C)] (B) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than three-fourths of the primary insurance amount of such individual,

[(D)] (C) has filed application for mother's or father's insurance benefits, or was entitled to **[wife's insurance benefits]** *a spouse's insurance benefit* on the basis of the wages and self-employment income of such individual for the month preceding the month in which **[he]** *such individual* died,

[(E)] (D) at the time of filing such application has in **[her]** *his or her* care a child of such individual entitled to a child's insurance benefit, and

[(F)] (E) in the case of a surviving divorced **[mother]** *parent*—

(i) the child referred to in subparagraph **[(E)]** (D) is **[her]** *his or her* son, daughter, or legally adopted child, and

(ii) the benefits referred to in such subparagraph are payable on the basis of such individual's wages and self-employment income.

shall (subject to subsection (s)) be entitled to a mother's or father's insurance benefit for each month, beginning with the first month **[after August 1950]** in which **[she]** *he or she* becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: no child of such deceased individual is entitled to a child's insurance benefit, such **[widow]** *surviving spouse* or surviving divorced **[mother]** *parent* becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of such deceased individual, **[she]** *he or she* becomes entitled to a **[widow's]** *surviving spouse's* insurance benefit, **[she]** *[he or she]* **[remarries]** or **[she]** *he* dies. Entitlement to such benefits shall also end, in the case of a surviving divorced **[mother.]** *parent*, with the month immediately preceding the first month in which no son, daughter, or legally adopted child of such surviving divorced **[mother]** *parent* is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased individual.

(2) Such mother's *or father's* insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of such deceased individual.

(3) In the case of a **[widow]** *surviving spouse* or surviving divorced **[mother]** *parent* who marries—

(A) an individual entitled to benefits under *this subsection or subsection (a), (c), (f), or (h), or under section 223(a), or*

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

the entitlement of such **[widow]** *surviving spouse* or surviving divorced **[mother]** *parent* to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under section 223(a) or subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 223(a) or subsection (d) of this section unless (i) **[he]** *such individual* ceases to be so entitled by reason of **[his]** *his or her* death, or (ii) in the case of an individual who was entitled to benefits under section 223(a), **[he]** *such individual* is entitled, for the month following such last month, to benefits under subsection (a) of this section.

Parent's Insurance Benefits

(h) (1) Every parent (as defined in this subsection) of an individual who died a fully insured individual if such parent—

(A) has attained age 62.

(B) (i) was receiving at least one-half of his support from such individual at the time of such individual's death or, if such individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of such death, and (ii) filed proof of such support within two years after the date of such death, or, if such individual had such a period of disability, within two years after the month in which such individual filed application with respect to such period of disability or two years after the date of such death, as the case may be,

[(C) has not married since such individual's death,]

[(D)] (C) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than $82\frac{1}{2}$ percent of the primary insurance amount of such deceased individual if the amount of the parent's insurance benefit for such amount is determinable under paragraph (2)(A) (or 75 percent of such primary insurance amount in any other case), and

[(E)] (D) has filed application for parent's insurance benefits, shall be entitled to a parent's insurance benefit for each month beginning with the first month after August 1950 in which such parent becomes so entitled to such parent's insurance benefits and ending with the month preceding the first month in which any of the following occurs: such parent dies, **[marries,]** or becomes entitled to an old-age

insurance benefit equal to or exceeding $82\frac{1}{2}$ percent of the primary insurance amount of such deceased individual if the amount of the parent's insurance benefit for such month is determinable under paragraph (2)(A) (or 75 percent of such primary insurance amount in any other case).

(2)(A) Except as provided in subparagraphs (B) and (C), such parent's insurance benefit for each month shall be equal to $82\frac{1}{2}$ percent of the primary insurance amount of such deceased individual.

(B) For any month for which more than one parent is entitled to parent's insurance benefits on the basis for such deceased individual's wages and self-employment income, such benefit for each such parent for such month shall (except as provided in subparagraph (C)) be equal to 75 percent of the primary insurance amount of such deceased individual.

(C) In any case in which—

(i) any parent is entitled to a parent's insurance benefit for a month on the basis of a deceased individual's wages and self-employment income, and

(ii) another parent of such deceased individual is entitled to a parent's insurance benefit for such month on the basis of such wages and self-employment income, and on the basis of an application filed after such month and after the month in which the application for the parent's benefits referred to in clause (i) was filed,

the amount of the parent's insurance benefit of the parent referred to in clause (i) for the month referred to in such clause shall be determined under subparagraph (A) instead of subparagraph (B) and the amount of the parent's insurance benefit of a parent referred to in clause (ii) for such month shall be equal to 150 percent of the primary insurance amount of the deceased individual minus the amount (before the application of section 203(a)) of the benefit for such month of the parent referred to in clause (i).

(3) As used in this subsection, the term "parent" means the mother or father of an individual, a stepparent of an individual by a marriage contracted before such individual attained the age of sixteen, or an adopting parent by whom an individual was adopted before he attained the age of sixteen.

[(4) In the case of a parent who marries—

[(A) an individual entitled to benefits under this subsection or subsection (b), (c), (e), (f), or (g), or

[(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

such parent's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection(s), not be terminated by reason of such marriage; except that, in the case of such a marriage to [a male] an individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless he ceases to be so entitled by reason of his death.]

* * * * *

Application for Monthly Insurance Benefits

(j) (1) **[An]** *Subject to the limitations contained in paragraph (4), an individual who would have been entitled to a benefit under subsection (a), (b), (c), (d), (e), (f), (g), or (h) for any month after August 1950 had he filed application therefor prior to the end of such month shall be entitled to such benefit for such month if he files application therefor prior to the end of the twelfth month succeeding such month. Any benefit under this title for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Secretary has certified for payment for such prior month.*

(2) *An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application. If upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed in such first month.*

(3) *Notwithstanding the provisions of paragraph (1), an individual may, at his option, waive entitlement to any benefit referred to in paragraph (1) for any one or more consecutive months (beginning with the earliest month for which such individual would otherwise be entitled to such benefit) which occur before the month in which such individual files application for such benefit; and, in such case, such individual shall not be considered as entitled to such benefits for any such month or months before such individual filed such application. An individual shall be deemed to have waived such entitlement for any such month for which such benefit would, under the second sentence of paragraph (1), be reduced to zero.*

(4) (A) *Except as provided in subparagraph (B), no individual shall be entitled to benefits under subsection (a), (b), (c), or (f) for any month prior to the month in which he or she files an application for such benefits if the effect of such payment would be to reduce, pursuant to subsection (g), the monthly benefits to which such individual would otherwise be entitled.*

(B) (i) *If the individual applying for retroactive benefits is applying for such benefits under subsection (a), and there are one or more other persons who would, except for subparagraph (A), be entitled for any month, on the basis of the wages and self-employment income of such individual and because of such individual's entitlement to such retroactive benefits, to retroactive benefits under subsection (b), (c), or (d) not subject to reduction under subsection (g), then subparagraph (A) shall not apply with respect to such month or any subsequent month.*

(ii) *If the individual applying for retroactive benefits is a surviving spouse, or surviving divorced spouse who is under a disability (as defined in section 223(d)), and such individual would, except for subparagraph (A), be entitled to retroactive benefits as a disabled surviv-*

ing spouse, or surviving divorced spouse for any month before he or she attained the age of 60, then subparagraph (A) shall not apply with respect to such month or any subsequent month.

(iii) If the individual applying for retroactive benefits has excess earnings (as defined in section 203(f)) in the year in which he or she files an application for such benefits which could, except for subparagraph (A), be charged to months in such year prior to the month of application, then subparagraph (A) shall not apply to so many of such months immediately preceding the month of application as are required to charge such excess earnings to the maximum extent possible.

Simultaneous Entitlement to Benefits

(k) (1) A child, entitled to child's insurance benefits on the basis of the wages and self-employment income of an insured individual, who would be entitled, on filing application, to child's insurance benefits on the basis of the wages and self-employment income of some other insured individual, shall be deemed entitled, subject to the provisions of paragraph (2) hereof, to child's insurance benefits on the basis of the wages and self-employment income of such other individual if an application for child's insurance benefits on the basis of the wages and self-employment income of such other individual has been filed by any other child who would, on filing application, be entitled to child's insurance benefits on the basis of the wages and self-employment income of both such insured individuals.

(2) (A) Any child who under the preceding provisions of this section is entitled for any month to child's insurance benefits on the wages and self-employment income of more than one insured individual shall, notwithstanding such provisions, be entitled to only one of such child's insurance benefits for such month. Such child's insurance benefits for such month shall be the benefit based on the wages and self-employment income of the insured individual who has the greatest primary insurance amount, except that such child's insurance benefits for such month shall be largest benefit to which such child could be entitled under subsection (d) (without the application of section 203(a)) or subsection (m) if entitlement to such benefit would not, with respect to any person, result in a benefit lower (after the application of section 203(a)) than the benefit which would be applicable if such child were entitled on the wages and self-employment income of the individual with the greatest primary insurance amount. Where more than one child is entitled to child's insurance benefits pursuant to the preceding provisions of this paragraph, each such child who is entitled on the wages and self-employment income of the same insured individuals shall be entitled on the wages and self-employment income of the same such insured individual.

(B) Any individual [other than an individual to whom subsection (e) (4) or (f) (5) applies] who, under the preceding provisions of this section and under the provisions of section 223, is entitled for any month to more than one monthly insurance benefit (other than old-age or disability insurance benefit) under this title shall be entitled to only one such monthly benefit for such month, such benefit to be the largest of the monthly benefits to which he (but for this subparagraph (B))

would otherwise be entitled for such months. [Any individual who is entitled for any month to more than one widow's or widower's insurance benefit to which subsection (e)(4) or (f)(5) applies shall be entitled to only such benefit for such month, such benefit to be the largest of such benefits.]

(3) [(A)] If an individual is entitled to an old-age or disability insurance benefit for any month and to any other monthly insurance benefit for such month, such other insurance benefit for such month, after any reduction under subsection (q), subsection (e)(2) or (f)(3), and any reduction under section 203(a), shall be reduced, but not below zero, by an amount equal to such old-age or disability insurance benefit (after reduction under such subsection (q)).

[(B) If an individual is entitled for any month to a widow's or widower's insurance benefits to which subsection (e)(4) or (f)(5) applies and to any other monthly insurance benefit under section 202 (other than an old-age insurance benefit), such other insurance benefit for such month, after any reduction under subparagraph (A), any reduction under subsection (q), and any reduction under section 203(a), shall be reduced, but not below zero, by an amount equal to such widow's or widower's insurance benefit after any reduction or reductions under such subparagraph (A) and such section 203(a).]

(4) Any individual who, under this section and section 223, is entitled for any month to both an old-age insurance benefit and a disability insurance benefit under this title shall be entitled to only the larger of such benefits for such month, except that, if such individual so elects, he shall instead be entitled to only the smaller of such benefits for such month.

* * * * *

Minimum Survivor's Benefit

[(m) (1) In any case in which an individual is entitled to a monthly benefit under this section on the basis of the wages and self-employment income of a deceased individual for any month and no other person is (without the application of subsection (j)(1)) entitled to a monthly benefit under this section for such month on the basis of such wages and self-employment income, such individual's benefit amount for such month, prior to reduction under subsection (k)(3), shall be not less than the first amount appearing in column IV of the table in (or deemed to be in) section 215(a), except as provided in paragraph (2).]

(1) *In any case in which an individual is entitled to a monthly benefit under this section on the basis of a primary insurance amount computed under section 215 (a) or (d), as in effect after December 1978, on the basis of the wages and self-employment income of a deceased individual for any month and no other person is (without the application of subsection (j)(1)) entitled to a monthly benefit under this section for that month on the basis of such wages and self-employment income, the individual's benefit amount for that month, prior to reduction under subsection (k)(3), shall not be less than that provided by subparagraph (C)(i)(I) of section 215(a)(1) and increased under section 215(i) for months after May of the year in which the insured individual died as though such benefit were a primary insurance amount.*

* * * * *

Extension of Period for Filing Proof of Support and Applications for Lump-Sum Death Payment

(p) In any case in which there is a failure—

(1) to file proof of support under subparagraph (C) of subsection (c) (1), clause (i) or (ii) of subparagraph **[D]** (C) of subsection (f) (1), or subparagraph (B) of subsection (h) (1), or under clause (B) of subsection (f) (1) of this section as in effect prior to the Social Security Act Amendments of 1950, within the period prescribed by such subparagraph or clause, or

(2) to file, in the case of a death after 1946, applications for a lump-sum death payment under subsection (i), or under subsection (g) of this section as in effect prior to the Social Security Act Amendments of 1950, within the period prescribed by such subsection,

any such proof or application, as the case may be, which is filed after the expiration of such period shall be deemed to have been filed within such period if it is shown to the satisfaction of the Secretary that there was good cause for failure to file such proof or application within such period. The determination of what constitutes good cause for purposes of this subsection shall be made in accordance with regulations of the Secretary.

Reduction of Benefit Amounts for Certain Beneficiaries

(q) (1) If the first month for which an individual is entitled to an old-age, wife's, husband's, widow's, or widower's insurance benefit a month before the month in which such individual attains retirement age, the amount of such benefit for such month and for any subsequent month shall, subject to the succeeding paragraphs of this subsection, be reduced by—

(A) $\frac{5}{96}$ of 1 percent of such amount if such benefit is an old-age insurance benefit $\frac{25}{96}$ of 1 percent of such amount if such benefit is a wife's or husband's insurance benefit, or $\frac{19}{40}$ of 1 percent of such amount if such benefit is a widow's or widower's insurance benefit, multiplied by—

(B) (i) the number of months in the reduction period for such benefit (determined under paragraph (6) (A)), if such benefit is for a month before the month in which such individual attains retirement age, or

(ii) if less, the number of such months in the adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is (I) for the month in which such individual attains age 62, or (II) for the month in which such individual attains retirement age;

and in the case of a widow or widowers whose first month of entitlement to a widow's or widower's insurance benefit is a month before the month in which such widow or widower attains age 60, such benefit, reduced pursuant to the preceding provisions of this paragraph (and before the application of the second sentence of paragraph (8)), shall be further reduced by—

(C) $\frac{43}{240}$ of 1 percent of the amount of such benefit, multiplied by—

(D) (i) the number of months in the additional reduction period for such benefit (determined under paragraph (6) (B)), if such benefit is for a month before the month in which such individual attains age 62, or

(ii) if less, the number of months in the additional adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is for the month in which such individual attains age 62 or any month thereafter.

(2) If an individual is entitled to a disability insurance benefit for a month after month for which such individual was entitled to an old-age insurance benefit, such disability insurance benefit for each month after a month for which such individual was entitled to an old-age insurance benefit would be reduced under paragraphs (1) and (4) for such months had such individual attained age 65 in the first month for which he most recently became entitled to a disability insurance benefit.

(3) (A) If the first month for which an individual both is entitled to a wife's, husband's, widow's, or widower's insurance benefit and has attained age 62 (in the case of a wife's or husband's insurance benefit) or age 50 (in the case of a widow's or widower's insurance benefit) is a month for which such individual is also entitled to—

(i) an old-age insurance benefit (to which such individual was first entitled for a month before he attains age 65), or

(ii) a disability insurance benefit,

then in lieu of any reduction under paragraph (1) (but subject to the succeeding paragraphs of this subsection) such wife's, husband's, widow's, or widower's insurance benefit for each month shall be reduced as provided in subparagraph (B), (C), or (D).

(B) For any month for which such individual is entitled to an old-age insurance benefit and is not entitled to a disability insurance benefit, such individual's wife's, or husband's insurance benefit shall be reduced by the sum of—

(i) the amount by which such old-age insurance benefit is reduced under paragraph (1) for such month, and

(ii) the amount by which such wife's or husband's insurance benefit would be reduced under paragraph (1) for such month if it were equal to the excess of such wife's or husband's insurance benefit (before reduction under this subsection) over such old-age insurance benefit (before reduction under this subsection).

(C) For any month for which such individual is entitled to a disability insurance benefit, such individual's wife's, husband's, widow's, or widower's insurance benefit shall be reduced by the sum of—

(i) the amount by which such disability insurance benefit is reduced under paragraph (2) for such month (if such paragraph applied to such benefit), and

(ii) the amount by which such wife's, husband's, widow's, or widower's insurance benefit would be reduced under paragraph (1) for such month if it were equal to the excess of such wife's, husband's, widow's, or widower's insurance benefit (before reduction under this subsection) over such disability insurance benefit (before reduction under this subsection).

(D) For any month for which such individual is entitled neither to an old-age insurance benefit nor to a disability insurance benefit, such individual's wife's, husband's, widow's, or widower's insurance benefit shall be reduced by the amount by which it would be reduced under paragraph (1).

(E) If the first month for which an individual is entitled to an old-age insurance benefit (whether such first month occurs before, with, or after the month in which such individual attains the age of 65) is a month for which such individual is also (or would, but for subsection (e) (1) in the case of a widow or surviving divorced wife or subsection (f) (1) in the case of a widower *or surviving divorced husband*, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she or he attained retirement age, then such old-age insurance benefit shall be reduced by whichever of the following is the larger:

(i) the amount by which (but for this subparagraph) such old-age insurance benefit would have been reduced under paragraph (1), or

(ii) the amount equal to the sum of (I) the amount by which such widow's or widower's insurance benefit would be reduced under paragraph (1) if the period specified in paragraph (6) (A) ended with the month before the month in which she or he attained age 62 and (II) the amount by which such old-age insurance benefit would be reduced under paragraph (1) if it were equal to the excess of such old-age insurance benefit (before reduction under this subsection over such widow's or widower's insurance benefit (before reduction under this subsection)).

(F) If the first month for which an individual is entitled to a disability insurance benefit (when such first month occurs with or after the month in which such individual attains the age of 62) is a month for which such individual is also (or would, but for subsection (e) (1) in the case of a widow or surviving divorced wife or subsection (f) (1) in the case of a widower *or surviving divorced husband*, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she or he attained retirement age, then such disability insurance benefit for each month shall be reduced by whichever of the following is larger:

(i) the amount by which (but for this subparagraph) such disability insurance benefit would have been reduced under paragraph (2), or

(ii) the amount equal to the sum of (I) the amount by which such widow's or widower's insurance benefit would be reduced under paragraph (1) if the period specified in paragraph (6) (A) ended with the month before the month in which she or he attained age 62 and (II) the amount by which such disability insurance benefit would be reduced under paragraph (2) if it were equal to the excess of such disability insurance benefit (before reduction under this subsection) over such widow's or widower's insurance benefit (before reduction under this subsection)).

(G) If the first month for which an individual is entitled to a disability insurance benefit (when such first month occurs before the month in which such individual attains the age of 62) is a month for

which such individual is also (or would, but for subsection (e) (1) in the case of a widow or surviving divorced wife or subsection (f) (1) in the case of a widower *or surviving divorced husband* be) entitled to a widow's or widower's insurance benefit, then such disability insurance benefit for each month shall be reduced by the amount such widow's insurance benefit would be reduced under paragraphs (1) and (4) for such month as if the period specified in paragraph (6) (A) (or, if such paragraph does not apply, the period specified in paragraph (6) (B)) ended with the month before the first month for which she or he most recently became entitled to a disability insurance benefit.

(H) Notwithstanding subparagraph (A) of this paragraph, if the first month for which an individual is entitled to a widow's or widower's insurance benefit is a month for which such individual is also entitled to an old-age insurance benefit to which such individual was first entitled *for that month or* for a month before she or he became entitled to a widow's or widower's benefit, the reduction in such widow's or widower's insurance benefit shall be determined under paragraph (1).

(4) If—

(A) an individual is or was entitled to a benefit subject to reduction under paragraph (1) or (3) of this subsection, and

(B) such benefit is increased by reason of an increase in the primary insurance amount of the individual on whose wages and self-employment income such benefit is based,

[then the amount of the reduction of such benefit for each month shall be computed separately (under paragraph (1) or (3), whichever applies) for the portion of such benefit which constitutes such benefit before any increase described in subparagraph (B), and separately (under paragraph (1) or (3), whichever applies to the benefit being increased) for each such increase. For purposes of determining the amount of the reduction under paragraph (1) or (3) in any such increase, the reduction period and the adjusted reduction period shall be determined as if such increase were a separate benefit to which such individual was entitled for and after the first month for which such increase is effective.]

then the amount of the reduction of such benefit (after the application of any adjustment under paragraph (7)) for each month beginning with the month of such increase in the primary insurance amount shall be computed under paragraph (1) or (3), whichever applies, as though the increased primary insurance amount had been in effect for and after the month for which the individual first became entitled to such monthly benefit reduced under such paragraph (1) or (3).

(5) (A) No husband's or wife's insurance benefit shall be reduced under this subsection—

(i) for any month before the first month for which there is in effect a certificate filed by *his or her* with the Secretary, in accordance with regulations prescribed by him, in which *he or she* elects to receive *husband's or wife's* insurance benefits reduced as provided in this subsection, or

(ii) for any month in which *he or she* has in *his or her* care (individually or jointly with the person on whose wages and self-

employment income *his or her husband's or wife's* insurance benefit is based) a child of such person entitled to child's insurance benefits.

(B) Any certificate described in subparagraph (A) (i) shall be effective for purposes of this subsection (and for purposes of preventing deductions under section 203(c) (2))—

(i) for the month in which it is filed and for any month thereafter, and

(ii) for months, in the period designated by the [woman] *individual* filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which *he or she* attains age 62, nor shall it be effective for any month to which subparagraph (A) (ii) applies.

(C) If [a woman] *an individual* does not have in *his or her* care a child described in subparagraph (A) (ii) in the first month for which *he or she* is entitled to a *husband's or wife's* insurance benefit, and if such first month is a month before the month in which *he or she* attains age 65, *he or she* shall be deemed to have filed in such first month the certificate described in subparagraph (A) (i).

(D) No *widower's or widow's* insurance benefit for a month in which *wife or she* has in *his or her* care a child of *his or her* deceased *wife or husband* (or deceased former *wife or husband*) entitled to child's insurance benefits shall be reduced under this subsection below the amount to which *he or she* would have been entitled had *he or she* been entitled for such month to *father's or mother's* insurance benefits on the basis of *his or her* deceased *wife's or husband's* (or deceased former *wife's or husband's*) wages and self-employment income.

(6) For the purposes of this subsection—

(A) the “reduction period” for an individual's old-age, wife's, husband's, widow's, or widower's insurance benefit is the period—

(i) beginning—

(I) in the case of an old-age [or husband's] insurance benefit, with the first day of the first month for which such individual is entitled to such benefit, or

(II) in the case of a wife's or husband's insurance benefit, with the first day of the first month for which a certificate described in paragraph (5) (A) (i) is effective, or

(III) in the case of a widow's or widower's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit or the first day of the month in which such individual attains age 60, whichever is the later, and

(ii) ending with the last day of the month before the month in which such individual attains retirement age; and

(B) the “additional reduction period” for an individual's widow's, or widower's insurance benefit is the period—

(i) beginning with the first day of the first month for which such individual is entitled to such benefit, but only if

such individual has not attained age 60 in such first month, and

(ii) ending with the last day of the month before the month in which such individual attains age 60.

(7) For purposes of this subsection the "adjusted reduction period" for an individual's old-age, wife's, husband's, widow's, or widower's insurance benefit is the reduction period prescribed in paragraph (6) (A) for such benefit, and the "additional adjusted reduction period" for an individual's, widow's, or widower's, insurance benefit is the additional reduction period prescribed by paragraph (6) (B) for such benefit, excluding from each such period—

(A) any month in which such benefit was subject to deductions under section 203(b), 203(c) (1), 203(d) (1), or 222(b),

(B) in the case of *husband's or wife's* insurance benefits, any month in which *he* or *she* had in *his or her* care (individually or jointly with the person on whose wages and self-employment income such benefits were based ceased to be under a disability,] insurance benefits,

(C) in the case of wife's or husband's insurance benefits, any month for which such individual was not entitled to such benefits [because the spouse on whose wages and self-employment income such benefits were based ceased to be under a disability, *because of the occurrence of an event that terminated her or his entitlement to such benefits.*

(D) in the case of widow's or widower's insurance benefits, any month in which the reduction in the amount of such benefit was determined under paragraph (5) (D),

(E) in the case of widow's or widower's insurance benefits, any month before the month in which she or he attained age 62, and also for any later month before the month in which he attained retirement age, for which she or he was not entitled to such benefit because of the occurrence of an event that terminated her or his entitlement to such benefits, and

(F) in the case of old-age insurance benefits, any month for which such individual was entitled to a disability insurance benefit.

(8) This subsection shall be applied after reduction under section 203(a) and after application of section 215(g). If the amount of any reduction computed under paragraph (1), (2), or (3) is not a multiple of \$0.10, it shall be reduced to the next lower multiple of \$0.10.

(9) For purposes of this subsection, the term "retirement age" means age 65.

* * * * *

Child Age 18 or Over Attending School

(s) (1) For the purposes of subsections (b) (1), (c) (1), (g) (1), (q) (5), and (q) (7) of this section and paragraphs (2), (3), and (4) of section 203(c), a child who is entitled to child's insurance benefits under subsection (d) for any month, and who has attained the age of 18 but is not in such month under a disability (as defined in section 223(d)) shall be deemed not entitled to such benefits for such month,

unless he was under such a disability in the third month before such month.

[(2) Subsection (f) (4), and so much of subsections (b) (3), (c) (4), (d) (5), (e) (3), (g) (3), and (h) (4), of this section as precedes the semicolon, shall not apply in the case of any child unless such child, at the time of the marriage referred to therein, was under a disability (as defined in section 223(d)) or had been under such a disability in the third month before the month in which such marriage occurred.]

(3) Subsections (c) (2) (B) and (f) (2) (B) of this section, [so much of subsections (b) (3), (c) (4), (d) (5), (e) (3), (f) (4), (g) (3), and (h) (4) of this section as follows the semicolon.] the last sentence of subsection (c) of section 203, subsection (f) (1) (C) of section 203, and subsections (b) (3) (B), (c) (6) (B), (f) (3) (B), and (g) (6) (B) of section 216 shall not apply in the case of any child with respect to any month referred to therein unless in such month or the third month prior thereto such child was under a disability (as defined in section 223(d)).

* * * * *

Effect of Conviction of Subversive Activities, etc.

(u) (1) If any individual is convicted of any offense (committed after the date of the enactment of this subsection) under—

(A) chapter 37 (relating to espionage and censorship), chapter 105 (relating to sabotage), or chapter 115 (relating to treason, sedition, and subversive activities) of title 18 of the United States Code, or

(B) section 4, 112, or 113 of the Internal Security Act of 1950, as amended,

then the court may, in addition to all other penalties provided by law, impose a penalty that in determining whether any monthly insurance benefit under this section or section 223 is payable to such individual for the month in which he is convicted or for any month thereafter, in determining the amount of any such benefit payable to such individual for any such month, and in determining whether such individual is entitled to insurance benefits under part A of title XVIII for any such month, there shall not be taken into account—

(C) any wages paid to such individual or to any other individual in the calendar [quarter] year in which such conviction occurs or in any prior calendar [quarter] year, and

(D) any net earnings from self-employment derived by such individual or by any other individual during a taxable year in which such conviction occurs or during any prior taxable year.

(2) As soon as practicable after an additional penalty has, pursuant to paragraph (1), been imposed with respect to any individual, the Attorney General shall notify the Secretary of such imposition.

(3) If any individual with respect to whom an additional penalty has been imposed pursuant to paragraph (1) is granted a pardon of the offense by the President of the United States, such additional penalty shall not apply for any month beginning after the date on which such pardon is granted.

* * * * *

Increase in Old-Age Insurance Benefit Amounts on Account of Delayed Retirement

(w) (1) **¶**If the first month for which an old-age insurance benefit becomes payable to an individual is not earlier than the month in which such individual attains age 65 (or his benefit payable at such age is not reduced under subsection (q)), the amount of the old-age insurance benefit (other than a benefit based on a primary insurance amount determined under section 215 (a) (3)) *as in effect in December 1978 or section 215(a) (1) (C) (i) (II) as in effect thereafter* which is payable without regard to this subsection to such individual **¶**The amount of an old-age insurance benefit (other than a benefit based on a primary insurance amount determined under section 215(a) (3)) which is payable without regard to this subsection to an individual shall be increased by—

(A) one-twelfth of 1 percent of such amount, or, in the case of an individual who first becomes eligible for an old-age insurance benefit after December 1978, one-quarter of 1 percent of such amount, multiplied by

(B) the number (if any) of the increment months for such individual.

(2) For purposes of this subsection, the number of increment months for any individual shall be a number equal to the total number of the months—

(A) which have elapsed after the month before the month in which such individual attained age 65 or (if later) December 1970 and prior to the month in which such individual attained age 72, and

(B) with respect to which—

(i) such individual was a fully insured individual (as defined in section 214(a)), and

(ii) such individual either was not entitled to an old-age insurance benefit or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit.

(3) For purposes of applying the provisions of paragraph (1), a determination shall be made under paragraph (2) for each year, beginning with 1972, of the total number of an individual's increment months through the year for which the determination is made and the total so determined shall be applicable to such individual's old-age insurance benefits beginning with benefits for January of the year following the year for which such determination is made; except that the total number applicable in the case of an individual who attains age 72 after 1972 shall be determined through the month before the month in which he attains such age and shall be applicable to his old-age insurance benefit beginning with the month in which he attains such age.

(4) This subsection shall be applied after reduction under section 203(a).

(5) If an individual's primary insurance amount is determined under paragraph (3) of section 215(a) *as in effect in December 1978, or section 215(a) (1) (C) (i) (II) as in effect thereafter*, and, as a result

of this subsection, he would be entitled to a higher old-age insurance benefit if his primary insurance amount were determined under section 215(a) (*whether before, in, or after December 1978*) without regard to such paragraph, such individual's old-age insurance benefit based upon his primary insurance amount determined under such paragraph shall be increased by an amount equal to the difference between such benefit and the benefit to which he would be entitled if his primary insurance amount were determined under such section without regard to such paragraph.

* * * * *

REDUCTION OF INSURANCE BENEFITS

[Maximum Benefits

[SEC. 203. (a) Whenever the total monthly benefits to which individuals are entitled under sections 202 and 223 for a month on the basis of the wages and self-employment income of an insured individual is greater than the amount appearing in column V of the table in (or deemed to be in) section 215(a) on the line on which appears in column IV such insured individual's primary insurance amount, such total of benefits shall be reduced to such amount; except that—

[(1) when any of such individuals so entitled would (but for the provisions of section 202(k)(2)(A)) be entitled to child's insurance benefits on the basis of the wages and self-employment income of one or more other insured individuals, such total of benefits shall not be reduced to less than the smaller of: (A) the sum of the maximum amounts of benefits payable on the basis of the wages and self-employment income of all such insured individuals, or (B) the last figure in column V of the table appearing in section 215(a), or

[(2) when two or more persons were entitled (without the application of section 202(j)(1) and section 223(b) to monthly benefits under section 202 or 223 for January 1971 or any prior month on the basis of the wages and self-employment income of such insured individual and the provisions of this subsection as in effect for any such month were applicable in determining the benefit amount of any persons on the basis of such wages and self-employment income, the total of benefits for any month after January 1971 shall not be reduced to less than the largest of—

[(A) the amount determined under this subsection without regard to this paragraph,

[(B) the largest amount which has been determined for any month under this subsection for persons entitled to monthly benefits on the basis of such insured individual's wages and self-employment income, or

[(C) if any persons are entitled to benefits on the basis of such wages and self-employment income for the month before the effective month (after September 1972) of a general benefit increase under this title (as defined in section 215(i)(3)) or a benefit increase under the provisions of section 215(i), an amount equal to the sum of amounts derived

by multiplying the benefit amount determined under this title (excluding any part thereof determined under section 202(w)) for the month before such effective month (including this subsection, but without the application of section 222(b), section 202(q), and subsections (b), (c), and (d) of this section), for each such person for such month, by a percentage equal to the percentage of the increase provided under such benefit increase (with any such increased amount which is not a multiple of \$0.10 being rounded to the next higher multiple of \$0.10);

but in any such case (i) paragraph (1) of this subsection shall not be applied to such total of benefits after the application of subparagraph (B) or (C), and (ii) if section 202(k)(2)(A) was applicable in the case of any such benefits for a month, and ceases to apply for a month after such month, the provisions of subparagraph (B) or (C) shall be applied, for and after the month in which section 202(k)(2)(A) ceases to apply, as though paragraph (1) had not been applicable to such total of benefits for the last month for which subparagraph (B) or (C) was applicable, or

[(3) when any of such individuals is entitled to monthly benefits as a divorced wife under section 202(b) or as a surviving divorced wife under section 202(e), *or as a divorced husband under section 202(c) or as a surviving divorced husband under section 202(f)*, for any month, the benefit to which *he or she* is entitled on the basis of the wages and self-employment income of such insured individual for such month shall be determined without regard to this subsection, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 202 on the wages and self-employment income of such insured individual shall be determined as if no such divorced wife or surviving divorced wife *or divorced husband or surviving divorced husband* were entitled to benefits for such month.

In any case in which benefits are reduced pursuant to the preceding provisions of this subsection, such reduction shall be made after any deductions under this section and after any deductions under section 222(b). Whenever a reduction is made under this subsection in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment income of an insured individual, each such benefit other than the old-age or disability insurance benefit shall be proportionately decreased; except that if such total of benefits for such month includes any benefit or benefits under section 202(d) which are payable solely by reason of section 216(h)(3), the reduction shall be first applied to reduce (proportionately where there is more than one benefit so payable) the benefits so payable (but not below zero),

(1) notwithstanding any other provisions of law, when—

[(A) two or more persons are entitled to monthly benefits for a particular month on the basis of the wages and self-employment income of an insured individual and (for such particular month) the provisions of this subsection and section 202(q) are applicable to such monthly benefits, and

[(B) such individual's primary insurance amount is increased for the following month under any provision of this title,

then the total of monthly benefits for all persons on the basis of such wages and self-employment income for such particular month, as determined under the provisions of this subsection, shall for purposes of determining the total monthly benefits for all persons on the basis of such wages and self-employment income for months subsequent to such particular month to be considered to have been increased by the smallest amount that would have been required in order to assure that the total of monthly benefits payable on the basis of such wages and self-employment income for any such subsequent month will not be less (after the application of the other provisions of this subsection and section 202(q)) than the total of monthly benefits (after the application of the other provisions of this subsection and section 202(q)) payable on the basis of such wages and self-employment income for such particular month, or

[(5) whenever the monthly benefits of such individuals are based on an insured individual's primary insurance amount which is determined under section 215(a)(3) and such primary insurance amount does not appear in column IV of the table in (or deemed to be in section 215(a), the applicable maximum amount in column V of such table shall be the amount in such column that appears on the line on which the next higher primary insurance amount appears in column IV, or, if larger, the largest amount determined for such persons under this subsection for any month prior to October 1972.]

Maximum Benefits

SEC. 203. (a) (1) In the case of an individual whose primary insurance amount has been computed or recomputed under section 215(a)(1) or (4), or section 215(d), as in effect after December 1978, the total, monthly benefits to which beneficiaries may be entitled under section 202 or 223 for a month on the basis of the wages and self-employment income of such individual shall, except as provided by paragraph (3) (but prior to any increases resulting from the application of paragraph (2)(A)(ii)(III) of section 215(i)), be reduced as necessary so as not to exceed—

(A) 150 percent of such individual's primary insurance amount to the extent that it does not exceed the amount established with respect to this subparagraph by paragraph (2),

(B) 272 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (A) but does not exceed the amount established with respect to this subparagraph by paragraph (2),

(C) 134 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (B) but does not exceed the amount established with respect to this subparagraph by paragraph (2), and

(D) 175 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (C).

Any such amount that is not a multiple of \$0.10 shall be increased to the next higher multiple of \$0.10.

(2) (A) For individuals who initially become eligible for old-age or disability insurance benefits or die in the calendar year 1979, the amounts established with respect to subparagraphs (A), (B), and (C) of paragraph (1) shall be \$230, \$332, and \$433, respectively.

(B) For individuals who initially become eligible for old-age or disability insurance benefits or die in any calendar year after 1979, each of the amounts so established shall equal the product of the corresponding amount established for the calendar year 1979 by subparagraph (A) of this paragraph and the quotient obtained under subparagraph (B) (ii) of section 215(a) (1) with such product being rounded in the manner prescribed by section 215(a) (1) (B) (iii).

(C) In each calendar year after 1978 the Secretary shall publish in the Federal Register, on or before November 1, the formula which (except as provided in section 215(i) (2) (D)) is to be applicable under this paragraph to individuals who become eligible for old-age or disability insurance benefits, or die, in the following calendar year.

(D) A year shall not be counted as the year of an individual's death or eligibility for purposes of this paragraph as paragraph (7) in any case where such individual was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month of such death or eligibility (but there shall be counted instead the year of the individual's eligibility for the disability insurance benefits to which he was entitled during such 12 months).

(3) (A) When an individual who is entitled to benefits on the basis of the wages and self-employment income of any insured individual and to whom this subsection applies would (but for the provisions of section 202(k) (2) (A)) be entitled to child's insurance benefits for a month on the basis of the wages and self-employment income of one or more other insured individuals, the total monthly benefits to which all beneficiaries are entitled on the basis of such wages and self-employment income shall not be reduced under this subsection to less than the smaller of—

(i) the sum of the maximum amounts of benefits payable on the basis of the wages and self-employment income of all such insured individuals, or

(ii) an amount equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a) (1) for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined for that year under section 230.

(B) When two or more persons were entitled (without the application of section 202(j) (1) and section 223(b)) to monthly benefits under section 202 or 223 for January 1971 or any prior month on the basis of the wages and self-employment income of such insured individual and the provisions of this subsection as in effect for any such month were applicable in determining the benefit amount of any persons on the basis of such wages and self-employment income, the total of benefits for any month after January 1971 shall not be reduced to less than the largest of—

(i) the amount determined under this subsection without regard to this subparagraph,

(ii) the largest amount which has been determined for any month under this subsection for persons entitled to monthly benefits on the basis of such insured individual's wages and self-employment income, or

(iii) if any persons are entitled to benefits on the basis of such wages and self-employment income for the month before the effective month (after September 1972) of a general benefit increase under this title (as defined in section 215(i)(3)) or a benefit increase under the provisions of section 215(i), an amount equal to the sum of amounts derived by multiplying the benefit amount determined under this title (excluding any part thereof determined under section 202(w)) for the month before such effective month (including this subsection, but without the application of section 222(b), section 202(g), and subsections (b), (c), and (d) of this section), for each such person for such month, by a percentage equal to the percentage of the increase provided under such benefit increase (with any such increased amount which is not a multiple of \$0.10 being rounded to the next higher multiple of \$0.10);

but in any such case (I) subparagraph (A) of this paragraph shall not be applied to such total of benefits after the application of clause (ii) or (iii), and (II) if section 202(k)(2)(A) was applicable in the case of any such benefits for a month, and ceases to apply for a month after such month, the provisions of clause (ii) or (iii) shall be applied, for and after the month in which section 202(k)(2)(A) ceases to apply, as though subparagraph (A) of this paragraph had not been applicable to such total of benefits for the last month for which clause (ii) or (iii) was applicable.

(C) When any of such individual is entitled to monthly benefits as a divorced spouse under section 202(b) or (c) or as a surviving divorced spouse under section 202(e) or (f) for any month, the benefit to which he or she is entitled on the basis of the wages and self-employment income of such insured individual for such month shall be determined without regard to this subsection, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 202 on the wages and self-employment income of such insured individual shall be determined as if no such divorced spouse or surviving divorced spouse were entitled to benefits for such month.

(4) In any case in which benefits are reduced pursuant to the preceding provisions of this subsection, the reduction shall be made after any deductions under this section and after any deductions under section 222(b). Whenever a reduction is made under this subsection in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment income of an insured individual, each such benefit other than the old-age or disability insurance benefit shall be proportionately decreased.

(5) Notwithstanding any other provision of law, when—

(A) two or more persons are entitled to monthly benefits for a particular month on the basis of the wages and self-employment income of an insured individual and (for such particular month) the provisions of this subsection are applicable to such monthly benefits, and

(B) such individual's primary insurance amount is increased for the following month under any provision of this title, then the total of monthly benefits for all persons on the basis of such wages and self-employment income for such particular month, as determined under the provisions of this subsection, shall for purposes of determining the total monthly benefits for all persons on the basis of such wages and self-employment income for months subsequent to such particular month be considered to have been increased by the smallest amount that would have been required in order to assure that the total of monthly benefits payable on the basis of such wages and self-employment income for any such subsequent month will not be less (after the application of the other provisions of this subsection and section 202(q)) than the total of monthly benefits (after the application of the other provisions of this subsection and section 202(q)) payable on the basis of such wages and self-employment income for such particular month.

(6) In the case of any individual who is entitled for any month to benefits based upon the primary insurance amounts of two or more insured individuals, one or more of which primary insurance amounts were determined under section 215(a) or 215(d) as in effect (without regard to the table contained therein) prior to January 1979 and one or more of which primary insurance amounts were determined under section 215(a) (1) or (4), or section 215(d), as in effect after December 1978, the total benefits payable to that individual and all other individuals entitled to benefits for that month based upon those primary insurance amounts shall be reduced to an amount equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a)(1) for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefits base determined under section 230 for the year in which that month occurs.

(7) Subject to paragraph (6), this subsection as in effect in December 1978 shall remain in effect with respect to a primary insurance amount computed under section 215 (a) or (d), as in effect (without regard to the table contained therein) in December 1978, except that a primary insurance amount so computed with respect to an individual who first becomes eligible for an old-age or disability insurance benefit, or dies, after December 1978, shall instead be governed by this section as in effect after December 1978.

Deductions on Account of Work

(b) Deductions, in amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, and from any payment or payments to which any other persons are entitled on the basis of such individual's wages and self-employment income, until the total of such deductions equals—

(1) such individual's benefit or benefits under section 202 for any month, and

(2) if such individual was entitled to old-age insurance benefits under section 202(a) for such month, the benefit or benefits of

all other persons for such month under section 202 based on such individual's wages and self-employment income, if for such month he is charged with excess earnings, under the provisions of subsection (f) of this section, equal to the total of benefits referred to in clauses (1) and (2). If the excess earnings so charged are less than such total benefits, such deductions with respect to such month shall be equal only to the amount of such excess earnings. If a child who has attained the age of 18 and is entitled to child's insurance benefits, or a person who is entitled to mother's *or father's* insurance benefits, is married to an individual entitled to old-age insurance benefits under section 202(a), such child or such person, as the case may be, shall, for the purposes of this subsection and subsection (f), be deemed to be entitled to such benefits on the basis of the wages and self-employment income of such individual entitled to old-age insurance benefits. If a deduction has already been made under this subsection with respect to a person's benefit or benefits under section 202 for a month, he shall be deemed entitled to payments under such section for such month for purposes of further deductions under this subsection, and for purposes of charging of each person's excess earnings under subsection (f), only to the extent of the total of his benefits remaining after such earlier deductions have been made. For purposes of this subsection and subsection (f)—

(A) an individual shall be deemed to be entitled to payments under section 202 equal to the amount of the benefit or benefits to which he is entitled under such section after the application of subsection (a) of this section, but without the application of the penultimate sentence thereof; and

(B) if a deduction is made with respect to an individual's benefit or benefits under section 202 because of the occurrence in any month of an event specified in subsection (c) or (d) of this section or in section 222(b), such individual shall not be considered to be entitled to any benefits under such section 202 for such month.

Deductions on Account of Noncovered Work Outside the United States or Failure To Have Child in Care

[(c) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefits or benefit under section 202 for any month—

[(1) in which such individual is under the age of seventy-two and on seven or more different calendar days of which he engaged in noncovered remunerative activity outside the United States; or

[(2) in which such individual, if a wife under age sixty-five entitled to a wife's insurance benefits, did not have in her care (individually or jointly with her husband) a child of her husband entitled to a child's insurance benefits and such wife's insurance benefit for such month was not reduced under the provisions of section 202(q); or

[(3) in which such individual, if a widow entitled to a mother's insurance benefit did not have in her care a child of her deceased husband entitled to a child's insurance benefit; or

[(4) in which such an individual, if a surviving divorced mother entitled to a mother's insurance benefit, did not have in her care a child of her deceased former husband who (A) is her son, daughter, or legally adopted child and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of her deceased former husband.

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child's insurance benefit for any month in which paragraph (1) of section 202(s) applies or an event specified in section 222(b) occurs with respect to such child. Subject to paragraph (3) of such section 202(s), no deductions shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of eighteen or any subsequent month; nor shall any deduction be made under this subsection from any widow's insurance benefits for any month in which the widow or surviving divorced wife is entitled and has not attained age 65 (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower is entitled and has not attained age 65 (but only if he became so entitled prior to attaining age 60).]

(c) *Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefits or benefit under section 202 for any month—*

(1) *in which such individual is under the age of seventy-two and on [seven or more] [nine or more] twelve or more different calendar days of which such individual engaged in noncovered remunerative activity outside the United States; or*

(2) *in which such individual, if a wife or husband under age sixty-five entitled to a wife's or husband's insurance benefit, did not have in his or her care (individually or jointly with his or her spouse) a child of such spouse entitled to a child's insurance benefit and such wife's or husband's insurance benefit for such month was not reduced under the provisions of section 202(q); or*

(3) *in which such individual, if a widow or widower entitled to a mother's or father's insurance benefit, did not have in his or her care a child of his or her deceased spouse entitled to a child's insurance benefit; or*

(4) *in which such an individual, if a surviving divorced mother or father entitled to a mother's or father's insurance benefit, did not have in his or her care a child of his deceased former spouse who (A) is his or her son, daughter, or legally adopted child and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased former spouse.*

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child's insurance benefit

for any month in which paragraph (1) of section 202(s) applies or an event specified in section 222(b) occurs with respect to such child. Subject to paragraph (3) of such section 202(s), no deductions shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of eighteen or any subsequent month; nor shall any deduction be made under this subsection from any widow's insurance benefits for any month in which the widow or surviving divorced wife is entitled and has not attained age sixty-five (but only if she became so entitled prior to attaining age sixty), or from any widower's insurance benefit for any month in which the widower or surviving divorced husband is entitled and has not attained age sixty-five (but only if he became so entitled prior to attaining age sixty).

Deductions From Dependents' Benefits on Account of Noncovered Work Outside the United States by Old-Age Insurance Beneficiary

(d)(1) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to old-age insurance benefits, to which a wife, divorced wife, husband, *divorced husband*, or child is entitled, until the total of such deduction equals such wife's, husband's, or child's insurance benefit or benefits under section 202 for any month in which such individual is under the age of seventy-two and on **[seven or more]** **[nine or more]** *twelve or more* different calendar days of which he engaged in noncovered remunerative activity outside the United States.

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled, or from any mother's or *father's* insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or mother's or *father's* insurance benefit or benefits under section 202 for any month in which such child or person entitled to mother's or *father's* insurance benefits is married to an individual who is entitled to old-age insurance benefits and on **[seven or more]** **[nine or more]** *twelve or more* different calendar days of which such individual engaged in noncovered remunerative activity outside the United States.

Months to Which Earnings Are Charged

(f) For purposes of subsection (b)—

(1) The amount of an individual's excess earnings (as defined in paragraph (3)) shall be charged to months as follows: There shall be charged to the first month of such taxable year an amount of his excess earnings equal to the sum of the payments to which he and all other persons are entitled for such month under section 202 on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum), and the balance, if any, of such excess earnings shall be charged to each succeeding month in such year to the extent, in the case of each such month, of the sum of the payments to which such individual and all other persons are entitled for such month

under section 202 on the basis of his wages and self-employment income, until the total of such excess has been so charged. Where an individual is entitled to benefits under section 202(a) and other persons are entitled to benefits under section 202(b), (c), or (d) on the basis of the wages and self-employment income of such individual, the excess earnings of such individual for any taxable year shall be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Notwithstanding the preceding provisions of this paragraph, but subject to section 202(s), no part of the excess earnings of an individual shall be charged to any month (A) for which such individual was not entitled to a benefit under this title, (B) in which such individual was age seventy-two or over, (C) in which such individual, if a child entitled to child's insurance benefits, has attained the age of 18, (D) for which such individual is entitled to widow's insurance benefits and has not attained age 65 (but only if she became so entitled prior to attaining age 60) or widower's insurance benefits and has not attained age 65 (but only if he became so entitled prior to attaining age 60), or (E) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than **[\$200 or the exempt amount]** *the applicable exempt amount as determined under paragraph (8), if such month is in the taxable year in which occurs the first month that is both (i) a month for which the individual is entitled to benefits under subsection (a), (b), (c), (d), (e), (f), (g), or (h) of section 202 (without having been entitled for the preceding month to a benefit under any other of such subsections), and (ii) a month in which the individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5)) of more than the exempt amount as determined under paragraph (8).*

(2) As used in paragraph (1), the term "first month of such taxable year" means the earliest month in such year to which the charging of excess earnings described in such paragraph is not prohibited by the application of clauses (A), (B), (C), (D), and (E) thereof.

(3) For purposes of paragraph (1) and subsection (h), an individual's excess earnings for a taxable year shall be 50 per centum of his earnings for such year in excess of the product of **[\$200 or]** *the applicable exempt amount as determined under paragraph (8), multiplied by the number of months in such year, except that, in determining an individual's excess earnings for the taxable year in which he attains age 72, there shall be excluded any earnings of such individual for the month in which he attains such age and any subsequent month (with any net earnings or net loss from self-employment in such year being prorated in an equitable manner under regulations of the Secretary). The excess earnings as derived under the preceding sentence, if not a multiple of \$1, shall be reduced to the next lower multiple of \$1.*

(4) For purposes of clause (E) of paragraph (1)—

(A) An individual will be presumed, with respect to any month, to have been engaged in self-employment in such month until it is shown to the satisfaction of the Secretary that such individual rendered no substantial services in such month with respect to any trade or business the net income or loss of which is includible in computing (as provided in paragraph (5) of this subsection) his net earnings or net loss from self-employment for any taxable year. The Secretary shall by regulations prescribe the methods and criteria for determining whether or not an individual has rendered substantial services with respect to any trade or business.

(B) An individual will be presumed, with respect to any month, to have rendered services for wages (determined as provided in paragraph (5) of this subsection) of more than **[\$200 or]** the *applicable* exempt amount as determined under paragraph (8) until it is shown to the satisfaction of the Secretary that such individual did not render such services in such month for more than such amount.

(5) (A) An individual's earnings for a taxable year shall be (i) the sum of his wages for services rendered in such year and his net earnings from self-employment for such year, minus (ii) any net loss from self-employment for such year.

(B) For purposes of this section—

(i) an individual's net earnings from self-employment for any taxable year shall be determined as provided in section 211, except that paragraphs (1), (4), and (5) of section 211

(c) shall not apply and the gross income shall be computed by excluding the amounts provided by subparagraph (D), and

(ii) an individual's net loss from self-employment for any taxable year is the excess of the deductions (plus his distributive share of loss described in sections 702(a)(9) of the Internal Revenue Code of 1954) taken into account under clause (i) over the gross income (plus his distributive share of income so described) taken into account under clause (i).

(C) For purposes of this subsection, an individual's wages shall be computed without regard to the limitations as to amounts of remuneration specified in subsection (a), (g)(2), (g)(3), (h)(2), and (j) of section 209; and in making such computation services which do not constitute employment as defined in section 210, performed within the United States by the individual as an employee or performed outside the United States in the active military or naval service of the United States, shall be deemed to be employment as so defined if the remuneration for such services is not includible in computing his net earnings or net loss from self-employment.

(D) In the case of an individual—

(i) who has attained the age of 65 on or before the last day of the taxable year, and

(ii) who shows to the satisfaction of the Secretary that he is receiving royalties attributable to a copyright or patent

obtained before the taxable year in which he attained the age of 65 and that the property to which the copyright or patent relates was created by his own personal efforts, there shall be excluded from gross income any such royalties.

(6) For purposes of this subsection, wages (determined as provided in paragraph (5) (C)) which, according to reports received by the Secretary, are paid to an individual during a taxable year shall be presumed to have been paid to him for services performed in such year until it is shown to the satisfaction of the Secretary that they were paid for services performed in another taxable year. If such reports with respect to an individual shows his wages for a calendar year, such individual's taxable year shall be presumed to be a calendar year for purposes of this subsection until it is shown to the satisfaction of the Secretary that his taxable year is not a calendar year.

(7) Where an individual's excess earnings are charged to a month and the excess earnings so charged are less than the total of the payments (without regard to such charging) to which all persons are entitled under section 202 for such month on the basis of his wages and self-employment income, the difference between such total and the excess so charged to such month shall be paid (if it is otherwise payable under this title) to such individual and other persons in the proportion that the benefit to which each of them is entitled (without regard to such charging, without the application of section 202 (k) (3), and prior to the application of section 203(a)) bears to the total of the benefits to which all of them are entitled.

(8) (A) Whenever the Secretary pursuant to section 215 (i) increases benefits effective with the month of June following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs [a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends after the calendar year] *the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable (unless prevented from becoming effective by subparagraph (C)) with respect to taxable years ending in (or with the close of) the calendar year after the calendar year in which such benefit increase is effective (or, in the case of an individual who dies during the calendar year after the calendar year in which the benefit increase is effective, with respect to such individual's taxable year which ends, upon his death, during such year).*

(B) [The exempt amount for each month of a particular taxable year shall be] *Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be whichever of the following is the larger—*

(i) the *corresponding* exempt amount which [was] is in effect with respect to months in the taxable year in which the determination under subparagraph (A) [was] is made, or

[(ii) the product of the exempt amount described in clause (i) and the ratio of (I) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year in which the determination under subparagraph (A) was made to (II) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973, or, if later, the calendar year preceding the most recent calendar year in which an increase in the exempt amount was enacted or a determination resulting in such an increase was made under subparagraph (A), with such product, if not a multiple of \$10, being rounded to the next higher multiple of \$10 where such product is a multiple of \$5 but not of \$10 and to the nearest multiple of \$10 in any other case. For purposes of this clause (ii), the average of the wages for the calendar year 1978 (or any prior calendar year) shall, in the case of determinations made under subparagraph (A) prior to December 31, 1979, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.]

(ii) the product of the exempt amount described in clause (i) and the ratio of (I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the calendar year in which the determination under subparagraph (A) is made to (II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year before the most recent calendar year in which an increase in the exempt amount was enacted or a determination resulting in such an increase was made under subparagraph (A), with such product, if not a multiple of \$10, being rounded to the next higher multiple of \$10 where such product is a multiple of \$5 but not of \$10 and to the nearest multiple of \$10 in any other case.

Whenever the Secretary determines that [the] an exempt amount is to be increased in any year under this paragraph, he shall notify the House Committee on Ways and Means and the Senate Committee on Finance within 30 days after the close of the base quarter (as defined in section 215(i)(1)(A)) in such year of the estimated amount of such increase, indicating the new exempt amount, the actuarial estimates of the effect of the increase, and the actuarial assumptions and methodology used in preparing such estimates.

(C) Notwithstanding the determination of a new exempt amount by the Secretary under subparagraph (A) (and notwithstanding any publication thereof under such subparagraph or any

notification thereof under the last sentence of subparagraph (B)), such new exempt amount shall not take effect pursuant thereto if during the calendar year in which such determination is made a law increasing the exempt amount is enacted.

(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained age 65 before the close of the taxable year involved—

(i) shall be \$333.33 $\frac{1}{3}$ for each month of any taxable year ending after 1977 and before 1979,

(ii) shall be \$375 for each month of any taxable year ending after 1978 and before 1980, and

(iii) shall be determined (under subparagraph (B)) for each month of any taxable year ending after 1979 as though the dollar amounts specified in clauses (i) and (ii) had been determined (for the taxable years described in such clauses) under subparagraph (B).

* * * * *

Report of Earnings to Secretary

(h) (1) (A) If an individual is entitled to any monthly insurance benefit under section 202 during any taxable year in which he has earnings or wages, as computed pursuant to paragraph (5) of subsection (f), in excess of the product of [\$200 or] the applicable exempt amount as determined under subsection (f) (8) times the number of months in such year, such individual (or the individual who is in receipt of such benefit on his behalf) shall make a report to the Secretary of his earnings (or wages) for such taxable year. Such report shall be made on or before the fifteenth day of the fourth month following the close of such year, and shall contain such information and be made in such manner as the Secretary may by regulations prescribe. Such report need not be made for any taxable year (i) beginning with or after the month in which such individual attained the age of 72, or (ii) if benefit payments for all months (in such taxable year) in which such individual is under age 72 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection. The Secretary may grant a reasonable extension of time for making the report of earnings required in this paragraph if he finds that there is valid reason for a delay, but in no case may the period be extended more than three months.

(B) If the benefit payments of an individual have been suspended for all months in any taxable year under the provisions of the first sentence of paragraph (3) of this subsection, no benefit payments shall be made to such individual for any such month in such taxable year after the expiration of the period of three years, three months, and fifteen days following the close of such taxable year unless within such period the individual, or some other person entitled to benefits under this title on the basis of the same wages and self-employment income, files with the Secretary information showing that a benefit for such month is payable to such individual.

* * * * *

EVIDENCE, PROCEDURE, AND CERTIFICATION FOR PAYMENT

SEC. 205. (a) The Secretary shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

(b) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this title. Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, *surviving divorced father*, husband, *divorced husband*, widower, *surviving divorced husband*, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such a decision must be filed within sixty days after notice of such decision is received by the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

(c) (1) For the purposes of this subsection—

(A) The term “year” means a calendar year when used with respect to wages and a taxable year [(as defined in section 211 (e))] when used with respect to self-employment income.

(B) The term “time limitation” means a period of three years, three months, and fifteen days.

(C) The term “survivor” means an individual’s spouse, surviving divorced wife, *surviving divorced husband*, surviving divorced mother, *surviving divorced father*, child, or parent, who survives such individual.

(D) The term “period” when used with respect to self-employment income means a taxable year and when used with respect to wages means—

(i) a quarter if wages were reported or should have been reported on a quarterly basis on tax returns filed with the Secretary of the Treasury or his delegate under section 6011 of the Internal Revenue Code of 1954 or regulations thereunder (or on reports filed by a State under section 218(e) or regulations thereunder),

(ii) a year if wages were reported or should have been reported on a yearly basis on such tax returns or reports, or

(iii) the half year beginning January 1 or July 1 in the case of wages which were reported or should have been reported for calendar year 1937.

(2) (A) On the basis of information obtained by or submitted to the Secretary, and after such verification thereof as he deems necessary, the Secretary shall establish and maintain records of the amounts of wages paid to, and the amounts of self-employment income derived by, each individual and of the periods in which such wages were paid and such income was derived and, upon request, shall inform any individual or his survivor, or the legal representative of such individual or his estate, of the amounts of wages and self-employment income of such individual and the periods during which such wages were paid and such income was derived, as shown by such records at the time of such request.

(B) (i) In carrying out his duties under subparagraph (A), the Secretary shall take affirmative measures to assure that social security account numbers will, to the maximum extent practicable, be assigned to all members of appropriate groups or categories of individuals by assigning such numbers (or ascertaining that such numbers have already been assigned) :

(I) to aliens at the time of their lawful admission to the United States either for permanent residence or under other authority of law permitting them to engage in employment in the United States and to other aliens at such time as their status is so changed as to make it lawful for them to engage in such employment ;

(II) to any individual who is an applicant for or recipient of benefits under any program financed in whole or in part from Federal funds including any child on whose behalf such benefits are claimed by another person ; and

(III) to any other individual when it appears that he could have been but was not assigned an account number under the provisions of subclauses (I) or (II) but only after such investigation as is necessary to establish to the satisfaction of the Secretary, the identity of such individual, the fact that an account number has not already been assigned to such individual, and the fact that such individual is a citizen or a noncitizen who is not, because of his alien status, prohibited from engaging in employment ; and, in carrying out such duties, the Secretary is authorized to take affirmative measures to assure the issuance of social security numbers :

(IV) to or on behalf of children who are below school age at the request of their parents or guardians ; and

(V) to children of school age at the time of their first enrollment in school.

(ii) The Secretary shall require of applicants for social security account numbers such evidence as may be necessary to establish the age, citizenship, or alien status, and true identity of such applicants, and to determine which (if any) social security account number has previously been assigned to such individual.

(iii) In carrying out the requirements of this subparagraph, the Secretary shall enter into such agreements as may be necessary with the Attorney General and other officials and with State and local welfare agencies and school authorities (including non-public school authorities).

(C) (i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Secretary for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Secretary.

(ii) If and to the extent that any provision of Federal law heretofore enacted is inconsistent with the policy set forth in clause (i) of this subparagraph, such provision shall, on and after the date of the enactment of this subparagraph, be null, void, and of no effect.

(iii) For purposes of clause (i) of this subparagraph, an agency of a State (or political subdivision thereof) charged with the administration of any general public assistance, driver's license, or motor vehicle registration law which did not use the social security account number for identification under a law or regulation adopted before January 1, 1975, may require an individual to disclose his or her social security number to such agency solely for the purpose of administering the laws referred to in clause (i) above and for the purpose of responding to requests for information from an agency operating pursuant to the provisions of part A or D of title IV of the Social Security Act.

(iv) For purposes of this subparagraph, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

(3) The Secretary's record shall be evidence for the purpose of proceedings before the Secretary or any court of the amounts of wages paid to, and self-employment income derived by, an individual and of the periods in which such wages were paid and such income was derived. The absence of an entry in such records as to wages alleged to have been paid to, or as to self-employment income alleged to have been derived by, an individual in any period shall be evidence that no such alleged wages were paid to, or that no such alleged income was derived by, such individual during such period.

(4) Prior to the expiration of the time limitation following any year the Secretary may, if it is brought to his attention that any entry of wages or self-employment income in his records for such year is erroneous or that any item of wages or self-employment income for such year has been omitted from such records, correct such entry or include such omitted item in his records, as the case may be. After the expiration of the time limitation following any year—

(A) the Secretary's records (with changes, if any, made pursuant to paragraph (5)) of the amounts of wages paid to, and self-employment income derived by, an individual during any period in such year shall be conclusive for the purposes of this title;

(B) the absence of an entry in the Secretary's records as to the wages alleged to have been paid by an employer to an individual

during any period in such year shall be presumptive evidence for the purposes of this title that no such alleged wages were paid to such individual in such period; and

(C) the absence of an entry in the Secretary's records as to the self-employment income alleged to have been derived by an individual in such year shall be conclusive for the purposes of this title that no such alleged self-employment income was derived by such individual in such year unless it is shown that he filed a tax return of his self-employment income for such year before the expiration of the time limitation following such year, in which case the Secretary shall include in his records the self-employment income of such individual for such year.

(5) After the expiration of the time limitation following any year in which wages were paid or alleged to have been paid to, or self-employment income was derived or alleged to have been derived by, an individual, the Secretary may change or delete any entry with respect to wages or self-employment income in his records of such year for such individual or include in his records of such year for such individual any omitted item of wages or self-employment income but only—

(A) if an application for monthly benefits or for a lump-sum death payment was filed within the time limitation following such year; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon the application for monthly benefits or lump-sum death payment;

(B) if within the time limitation following such year an individual or his survivor makes a request for a change or deletion, or for an inclusion of an omitted item, and alleges in writing that the Secretary's records of the wages paid to, or the self-employment income derived by, such individual in such year are in one or more respects erroneous; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon such request. Written notice of the Secretary's decision on any such request shall be given to the individual who made the request;

(C) to correct errors apparent on the face of such records;

(D) to transfer items to records of the Railroad Retirement Board if such items were credited under this title when they should have been credited under the Railroad Retirement Act, or to enter items transferred by the Railroad Retirement Board which have been credited under the Railroad Retirement Act when they should have been credited under this title;

(E) to delete or reduce the amount of any entry which is erroneous as a result of fraud;

(F) to conform his records to—

(i) tax returns or portions thereof (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act, under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code of 1939, under chapter 2 or 21 of the Internal Revenue Code of 1954, or

under regulations made under authority of such title, subchapter, or chapter;

(ii) wage reports filed by a State pursuant to an agreement under section 218 or regulations of the Secretary, thereunder; or

(iii) assessments of amounts due under an agreement pursuant to section 218, if such assessments [are] *were* made within the period specified in subsection (q) of such section, or allowances of credits or refunds of overpayments by a State under an agreement pursuant to such section;

except that no amount of self-employment income of an individual for any taxable year (if such return or statement was filed after the expiration of the time limitation following the taxable year) shall be included in the Secretary's records pursuant to this subparagraph;

(G) to correct errors made in the allocation, to individuals or periods, of wages or self-employment income entered in the records of the Secretary;

* * * * *

Crediting of Compensation Under the Railroad Retirement Act

(o) If there is no person who would be entitled, upon application therefor, to an annuity under section 2 of the Railroad Retirement Act of 1974, or to a lump-sum payment under section 6(b) of such Act with respect to the death of an employee (as defined in such Act), then, notwithstanding section 210(a) [(9)] (6) of this Act, compensation (as defined in such Railroad Retirement Act, but excluding compensation attributable as having been paid during any month on account of military service creditable under section 3(i) of such Act if wages are deemed to have been paid to such employee during such month under subsection (a) or (e) of section 217 of this Act) of such employee shall constitute remuneration for employment for purposes of determining (A) entitlement to and the amount of any lump-sum death payment under this title on the basis of such employee's wages and self-employment income and (B) entitlement to and the amount of any monthly benefit under this title, for the month in which such employee died or for any month thereafter, on the basis of such wages and self-employment income. For such purposes, compensation (as so defined) paid in a calendar year *before 1978* shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee rendered services for such compensation.

DEFINITION OF WAGES

SEC. 209. For the purposes of this title, the term "wages" means remuneration paid prior to 1951 which was wages for the purposes of this title under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration paid in any medium other than cash;

except that, in the case of remuneration paid after 1950, such term shall not include—

(a) (1) * * *

* * * * *

(g) (1) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(2) Cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50. As used in this paragraph, the term "domestic service in a private home of the employer" does not include service described in section 210(f)(5);

(3) Cash remuneration paid by an employer in any calendar [quarter] year to an employee for service not in the course of the employer's trade or business, if the cash remuneration paid in such [quarter] year by the employer to the employee for such service is less than [\$50]. \$100. As used in this paragraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in section 210(f)(5);

(h) (1) Remuneration paid in any medium other than cash for agricultural labor;

(2) Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless (A) the cash remuneration paid in such year by the employer to the employee for such labor is \$150 or more, or (B) the employee performs agricultural labor for the employer on twenty days or more during such year for cash remuneration computed on a time basis;

(i) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains age 62 if he did not work for the employer in the period for which such payment is made. As used in this subsection, the term "sick pay" includes remuneration for service in the employ of a State, a political subdivision [(as defined in section 218(b)(2))] of a State, or an instrumentality of two or more States, paid to an employee thereof for a period during which he was absent from work because of sickness;

(j) Remuneration paid by an employer in any quarter to an employee for service described in section 210(j)(3)(C) (relating to home workers), if the cash remuneration paid in such [quarter] year by the employer to the employee for such service is less than [\$50;] \$100;

* * * * *

(n) Any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died; [or]

(o) Any payment made by an employer to an employee, if at the time such payment is made such employee is entitled to disability insurance benefits under section 223(a) and such entitlement commenced prior to the calendar year in which such payment is made, and if such employee did not perform any services for such employer during the period for which such payment is made.

For purposes of this title, in the case of domestic service described in subsection (g) (2), any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this title, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to \$1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (g) (2).

For purposes of this title, in the case of an individual performing service, as a member of a uniformed service, to which the provisions of section 210(1)(1) are applicable, the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service only his basic pay as described in section 102(10) of the Servicemen's and Veterans' Survivor Benefits Act.

For purposes of this title, in the case of an individual performing service, as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 210(o) are applicable, (1) the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service only amounts certified as payable pursuant to section 5(c) or 6(1) of the Peace Corps Act, and (2) any such amount shall be deemed to have been paid to such individual at the time the service, with respect to which it is paid, is performed.

For purposes of this title, tips received by an employee in the course of his employment shall be considered remuneration for employment. Such remuneration shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954 or (if no statement including such tips is so furnished) at the time received.

For purposes of this title, in any case where an individual is a member of a religious order (as defined in section 3121(r) (2) of the Internal Revenue Code of 1954) performing service in the exercise of duties required by such order, and an election of coverage under section 3121(r) of such Code is in effect with respect to such order or with respect to the autonomous subdivision thereof to which such member belongs, the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service the fair market value of any board, lodging, clothing, and other perquisites furnished to such member by such order or subdivision thereof or by any other person or organization pursuant to an agreement with such order or subdivision, except that the amount included as such individual's remuneration under this paragraph shall not be less than \$100 a month[.]; or

(p) *Remuneration paid by an organization exempt from income tax under section 501 of the Internal Revenue Code of 1954 in any calendar year to an employee for service rendered in the employ of such organization, if the remuneration paid in such year by the organization to the employee for such service is less than \$100.*

DEFINITION OF EMPLOYMENT

SEC. 210. For the purposes of this title—

Employment

(a) The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this title under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee (i) of an American employer (as defined in subsection (e)), or (ii) of a foreign subsidiary (as defined in section 3121(1) of the Internal Revenue Code of 1954) of a domestic corporation (as determined in accordance with section 7701 of the Internal Revenue Code of 1954) during any period for which there is in effect an agreement, entered into pursuant to section 3121(1) of the Internal Revenue Code of 1954, with respect to such subsidiary; except that, in the case of service performed after 1950, such term shall not include—

(1) Service performed by foreign agricultural workers (A) under contracts entered into in accordance with title V of the Agricultural Act of 1949, as needed, or (B) lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3) (A) Service performed by an individual in the employ of his spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service if—

(i) the employer is a surviving spouse or a divorced individual and has not remarried, or has a spouse living in the home who has a mental or physical condition which results in such spouse's being incapable of caring for a son, daughter, stepson, or stepdaughter (referred to in clause (ii)), for at least 4 continuous weeks in the calendar quarter in which the service is rendered, and

(ii) a son, daughter, stepson, or stepdaughter of such employer is living in the home, and

(iii) the son, daughter, stepson, or stepdaughter (referred to in clause (ii) has not attained age 18 or has a mental or physical condition which requires the personal care and supervision of an adult for at least 4 continuous weeks in the calendar quarter in which the service is rendered;

(4) Service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if (A) the individual is employed on and in connection with such vessel or aircraft when outside the United States and (B) (i) such individual is not a citizen of the United States or (ii) the employer is not an American employer;

[(5) Service performed in the employ of any instrumentality of the United States, if such instrumentality is exempt from the tax imposed by section 3111 of the Internal Revenue Code of 1954 by virtue of any provision of law which specifically refers to such section in granting such exemption;

[(6) (A) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is covered by a retirement system established by a law of the United States;

[(B) Service performed by an individual in the employ of an instrumentality of the United States if such an instrumentality was exempt from the tax imposed by section 1410 of the Internal Revenue Code of 1939 on December 31, 1950, and if such service is covered by a retirement system established by such instrumentality; except that the provisions of this subparagraph shall not be applicable to—

[(i) service performed in the employ of a corporation which is wholly owned by the United States;

[(ii) service performed in the employ of a Federal land bank, a Federal intermediate credit bank, a bank for cooperatives, a Federal land bank association, a production credit association, a Federal Reserve Bank, a Federal Home Loan Bank, or a Federal Credit Union;

[(iii) service performed in the employ of a State, county, or community committee under the Production and Marketing Administration;

[(iv) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; or

[(v) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instru-

mentality of the United States subject to the jurisdiction of the Secretary of the Treasury, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard;

[(C) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is performed—

[(i) as the President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner of or to, the Congress;

[(ii) in the legislative branch;

[(iii) in a penal institution of the United States by an inmate thereof;

[(iv) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training;

[(v) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency; or

[(vi) by any individual to whom subchapter III of chapter 83 of title 5, United States Code, does not apply because such individual is subject to another retirement system other than the retirement system of the Tennessee Valley Authority);

[(7) Service performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, except that this paragraph shall not apply in the case of—

[(A) service included under an agreement under section 218,

[(B) service which, under subsection (k), constitutes covered transportation service.

[(C) service in the employ of the Government of Guam or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, performed by an officer or employee thereof (including a member of the legislature of any such Government or political subdivision), and, for purposes of this title—

[(i) any person whose service as such an officer or employee is not covered by a retirement system established by a law of the United States shall not, with respect to such service, be regarded as an officer or employee of the United States or any agency or instrumentality thereof, and

[(ii) the remuneration for service described in clause (i) (including fees paid to a public official) shall be deemed to have been paid by the Government of Guam or the Government of American Samoa or by a political subdivision thereof or an instrumentality of any one or

more of the foregoing which is wholly owned thereby, whichever is appropriate,

[(D) service performed in the employ of the District of Columbia or any instrumentality which is wholly owned thereby, if such service is not covered by a retirement system established by a law of the United States; except that the provisions of this subparagraph shall not be applicable to service performed—

[(i) in a hospital or penal institution by a patient or inmate thereof;

[(ii) by an individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or as a medical or dental resident in training;

[(iii) by an individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency; or

[(iv) by a member of a board, committee, or council of the District of Columbia, paid on a per diem, meeting, or the fee basis, or

[(E) service performed in the employ of the Government of Guam (or any instrumentality which is wholly owned by such Government) by an employee properly classified as a temporary or intermittent employee, if such service is not covered by a retirement system established by a law of Guam; except that (i) the provisions of this subparagraph shall not be applicable to services performed by an elected official or a member of the legislature or in a hospital or penal institution by a patient or inmate thereof, and (ii) for purposes of this subparagraph, clauses (i) and (ii) of subparagraph (C) shall apply;

[(8) (A)] (5) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, except that this [subparagraph] paragraph shall not apply to service performed by a member of such an order in the exercise of such duties, if an election of coverage under section 3121(r) of the Internal Revenue Code of 1954 is in effect with respect to such order, or with respect to the autonomous subdivision thereof to which such member belongs;

[(B) Service performed in the employ of a religious, charitable, educational, or other organization described in section 501(c) (3) of the Internal Revenue Code of 1954, which is exempt from income tax under section 501(a) of such Code, but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to section 3121(k) of the Internal Revenue Code of 1954, (or deemed to have been so filed under paragraph (4) or (5) of such section 3121(k)) is in effect if such service is performed by an employee—

[(i) whose signature appears on the list filed (or deemed to have been filed) by such organization under such section 3121(k),

[(ii) who became an employee of such organization after the calendar quarter in which the certificate (other than a certificate referred to in clause (iii) was filed (or deemed to have been filed), or

[(iii) who, after the calendar quarter in which the certificate was filed (or deemed to have been filed) with respect to a group described in paragraph (1)(E) of such section 3121(k), became a member of such group,

except that this subparagraph shall apply with respect to service performed by an employee as a member of a group described in such paragraph (1)(E) with respect to which no certificate is (or is deemed to be) in effect;]

[(9)] (6) Service performed by an individual as an employee or employee representative as defined in section 3231 of the Internal Revenue Code of 1954;

[(10)] (7)(A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501 of the Internal Revenue Code of 1954, is the remuneration for such service is less than \$50;

(B) Service] (10) Service performed in the employ of—

[(i)] (A) a school, college, or university, or

[(ii)] (B) an organization described in section 509(a)(3) of the Internal Revenue Code of 1954 if the organization is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of a school, college, or university and is operated, supervised, or controlled by or in connection with such school, college, or university [, unless it is a school, college, or university of a State or a political subdivision thereof and the services in its employ performed by a student referred to in section 218(c)(5) are covered under the agreement between the Secretary of Health, Education, and Welfare and such State entered into pursuant to section 218];

if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university;

* * * * *

[(11)] (8) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

[(12)] (9) Service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect

to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

[(13)] (10) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law;

[(14)] (11) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

[(15)] (12) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (59 Stat. 669);

[(16)] (13) Service performed by an individual under an arrangement with the owner or tenant of land pursuant to which—

(A) such individual undertakes to produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land,

(B) the agricultural or horticultural commodities produced by such individual, or the proceeds therefrom, are to be divided between such individual and such owner or tenant, and

(C) the amount of such individual's share depends on the amount of the agricultural or horticultural commodities produced;

[(17)] (14) Service in the employ of any organization which is performed (A) in any [quarter] year during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended, as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and (B) after June 30, 1956;

[(18)] (15) Service performed in Guam by a resident of the Republic of the Philippines while in Guam on a temporary basis as a nonimmigrant alien admitted to Guam pursuant to section 101(a) (15) (H) (ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a) (15) (H) (ii));

[(19)] (16) Service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a) (15) of the Immigration and Nationality Act, as

amended, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be; or,

[(20)] (17) Service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which—

(A) such individual does not receive any cash remuneration (other than as provided in subparagraph (B)),

(B) such individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and

(C) the amount of such individual's share depends on the amount of the boat's (or boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals.

Included and Excluded Service

(b) If the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by paragraph [(9)](6) of subsection (a).

* * * * *

Agricultural Labor

(f) The term "agricultural labor" includes all service performed—

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(4)(A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed.

(B) In the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For the purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than twenty at any time during the calendar **[quarter]** *year* in which such service is performed.

(5) On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

The provisions of subparagraphs (A) and (B) of paragraph (4) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

* * * * *

[Covered Transportation Service]

[(k) (1)] Except as provided in paragraph (2), all services performed in the employ of a State or political subdivision in connection with its operation of a public transportation system shall constitute covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and prior to 1951.

[(2)] Service performed in the employ of a State or political subdivision in connection with the operation of its public transportation system shall not constitute covered transportation service if—

[(A)] any part of the transportation system was acquired from private ownership after 1936 and prior to 1951, and substantially all service in connection with the operation of the transportation system is, on December 31, 1950, covered under a general retirement system providing benefits which, by reason of a provision of the State's construction dealing specifically with retirement systems of the State or political subdivisions thereof, cannot be diminished or impaired; or

[(B) no part of the transportation system operated by the State or political subdivision on December 31, 1950, was acquired from private ownership after 1936 and prior to 1951; except that if such State or political subdivision makes an acquisition after 1950 from private ownership of any part of its transportation system, then, in the case of any employee who—

[(C) became an employee of such State or political subdivision in connection with and at the time of its acquisition after 1950 of such part, and

[(D) prior to such acquisition rendered service in employment in connection with the operation of such part of the transportation system acquired by the State or political subdivision, the service of such employee in connection with the operation of the transportation system shall constitute covered transportation service, commencing with the first day of the third calendar quarter following the calendar quarter in which the acquisition of such part took place, unless on such first day such service of such employee is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employee described in subparagraph (C).

[(3) All service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system shall constitute covered transportation service if the transportation system was not operated by the State or political subdivision prior to 1951 and, at the time of its first acquisition (after 1950) from private ownership of any part of its transportation system, the State or political subdivision did not have a general retirement system covering substantially all service performed in connection with the operation of the transportation system.

[(4) For the purposes of this subsection—

[(A) The term “general retirement system” means any pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof for employees of the State, political subdivision, or both; but such term shall not include such a fund or system which covers only service performed in positions connected with the operation of its public transportation system.

[(B) A transportation system or a part thereof shall be considered to have been acquired by a State or political subdivision from private ownership if prior to the acquisition service performed by employees in connection with the operation of the system or part thereof acquired constituted employment under this title, and some of such employees become employees of the State or political subdivision in connection with and at the time of such acquisition.

[(C) The term “political subdivision” includes an instrumentality of (i) a State, (ii) one or more political subdivisions of a State, or (iii) a State and one or more of its political subdivisions.]

Service in the Uniformed Services

[(1) (1) Except as provided in paragraph (4), the term “employment” shall, notwithstanding the provisions of subsection (a) of this

section, include service performed after December 1956 by an individual as a member of a uniformed service on active duty; but such term shall not include any such service which is performed while on leave without pay.】

(l) (1) Except as provided in paragraph (4), the term "employment" shall include service (other than service performed while on leave without pay) which is performed by an individual as a member of a uniformed service on active duty after December 1956.

* * * * *

Peace Corps Volunteer Service

(o) The term "employment" shall】, notwithstanding the provisions of subsection (a),】 include service performed by an individual as a volunteer or volunteer leader within the meaning of the Peace Corps Act.

SELF-EMPLOYMENT

SEC. 211. For the purposes of this title—

Net Earnings From Self-Employment

(a) The term "net earnings from self-employment" means the gross income, as computed under Subtitle A of the Internal Revenue Code of 1954, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) or income or loss described in section 702(a) (9) of the Internal Revenue Code of 1954, from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

(1) There shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares), together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual which provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) in the production or the management of the production of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) with respect to any such agricultural or horticultural commodity;

(2) There shall be excluded dividends on any share of stock, and interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a government or political subdivision thereof), unless such dividends and interest (other than interest described in section 35 of the Internal Revenue Code of 1954) are received in the course of a trade or business as a dealer in stocks or securities;

(3) There shall be excluded any gain or loss (A) which is considered under Subtitle A of the Internal Revenue Code of 1954 as gain or loss from the sale or exchange of a capital asset, (B) from the cutting of timber or the disposal of timber, coal, or iron ore, if section 631 of the Internal Revenue Code of 1954 applies to such gain or loss, or (C) from the sale, exchange, involuntary conversion, or other disposition of property if such property is neither (i) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor (ii) property held primarily for sale to customers in the ordinary course of the trade or business;

(4) The deduction for net operating losses provided in section 172 of such Code shall not be allowed;

(5) (A) If any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the [husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife] *spouse who exercises the greatest management and control over the trade or business, except that such income and deductions shall be divided equally between the two spouses if each spouse exercises the same amount of management and control over the trade or business;*

(B) If any portion of a partner's distributive share of the ordinary net income or loss from a trade or business carried on by a partnership is community income or loss under the community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner, and no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner;

(6) A resident of the Commonwealth of Puerto Rico shall compute his net earnings from self-employment in the same manner as a citizen of the United States but without regard to the provisions of section 933 of the Internal Revenue Code of 1954;

(7) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 107 (relating to rental value of parsonages), section 119 (relating to meals and lodging furnished

for the convenience of the employer) and section 911 (relating to earned income from sources without the United States), and section 931 (relating to income from sources within possessions of the United States) of the Internal Revenue Code of 1954;

(8) The term "possession of the United States" as used in sections 931 (relating to income from sources within possessions of the United States) and 932 (relating to citizens of possessions of the United States) of the Internal Revenue Code of 1954 shall be deemed not to include the Virgin Islands, Guam, or American Samoa;

(9) There shall be excluded amounts received by a partner pursuant to a written plan of the partnership, which meets such requirements as are prescribed by the Secretary of the Treasury or his delegate, and which provides for payments on account of retirement, on a periodic basis, to partners generally or to a class or classes of partners, such payments to continue at least until such partner's death, if—

(A) such partner rendered no services with respect to any trade or business carried on by such partnership (or its successors) during the taxable year of such partnership (or its successors), ending within or with his taxable year, in which such amounts were received, and

(B) no obligation exists (as of the close of the partnership's taxable year referred to in subparagraph (A)) from the other partners to such partner except with respect to retirement payments under such plan, and

(C) such partner's share, if any of the capital of the partnership has been paid to him in full before the close of the partnership's taxable year referred to in subparagraph (A); [and]

(10) In the case of an individual who has been a resident of the United States during the entire taxable year, the exclusion from gross income provided by section 911(a)(2) of the Internal Revenue Code of 1954 shall not apply[.]; and

(11) *There shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than guaranteed payments described in section 707(c) of the Internal Revenue Code of 1954 to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services.*

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based upon the ordinary net income or loss of the partnership for any taxable year of the partnership (even though beginning prior to 1951) ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees the major portion of the services would constitute agricultural labor as defined in section 210(f)—

(i) in the case of an individual, if the gross income derived by him from such trade or business is not more than \$2,400, the net

earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66 $\frac{2}{3}$ percent of such gross income; or

(ii) in the case of an individual, if the gross income derived by him from such trade or business is more than \$2,400 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than \$1,600, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be \$1,600; and

(iii) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of the Internal Revenue Code of 1954 applies) is not more than \$2,400, his distributive share of income described in section 702(a)(9) of such Code derived from such trade or business may, at his option, be deemed to be an amount equal to 66 $\frac{2}{3}$ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of the Internal Revenue Code of 1954 applies) is more than \$2,400 and his distributive share (whether or not distributed) of income described in section 702(a)(9) of such Code derived from such trade or business (computed under this subsection without regard to this sentence) is less than \$1,600, his distributive share of income described in such section 702(a)(9) derived from such trade or business may, at his option, be deemed to be \$1,600.

For purposes of the preceding sentence, gross income means—

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of this subsection; and

(vi) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

The preceding sentence and clauses (i) through (iv) of the second preceding sentence shall also apply in the case of any trade or business

(other than a trade or business specified in such second preceding sentence) which is carried on by an individual who is self-employed on a regular basis as defined in subsection (g), or by a partnership of which an individual is a member on a regular basis as defined in subsection (g), but only if such individual's net earnings from self-employment in the taxable year as determined without regard to this sentence are less than \$1,600 and less than 66⅔ percent of the sum (in such taxable year) of such individual's gross income derived from all trades or businesses carried on by him and his distributive share of the income or loss from all trades or businesses carried on by all of the partnerships of which he is a member; except that this sentence shall not apply to more than 5 taxable years in the case of any individual, and in no case in which an individual elects to determine the amount of his net earnings from self-employment for a taxable year under the provisions of the two preceding sentences with respect to a trade or business to which the second preceding sentence applies and with respect to a trade or business to which this sentence applies shall such net earnings for such year exceed \$1,600.

* * * * *

Trade or Business

(C) The term "trade or business", when used with reference to self-employment income or net earnings from self-employment, shall have the same meaning as when used in section 162 of the Internal Revenue Code of 1954, except that such term shall not include—

(1) The performance of the functions of a public office, other than the functions of a public office of a State or a political subdivision thereof with respect to fees received in any period in which the functions are performed in a position compensated solely on a fee basis [and in which such functions are not covered under an agreement entered into by such State and the Secretary pursuant to section 218];

(2) The performance of service by an individual as an employee other than—

(A) service described in section 210(a) [14] (11) (B) performed by an individual who has attained the age of eighteen,

(B) service described in section 210(a) [16] (13);

(C) service described in section 210(a) [11], [12], or [15] (8), or (9), or (12) performed in the United States by a citizen of the United States,

(D) service described in paragraph (4) of this subsection,

(E) service performed by an individual as an employee of a State or a political subdivision thereof in a position compensated solely on a fee basis [with respect to fees received in any period in which such service is not covered under an agreement entered into by such State and the Secretary pursuant to section 218] and

(F) service described in section 210(a) [20] (17);

(3) The performance of service by an individual as an employee or employee representative as defined in section 3231 of the Internal Revenue Code of 1954;

(4) The performance of service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(5) The performance of service by an individual in the exercise of his profession as a Christian Science practitioner; or

(6) The performance of service by an individual during the period for which an exemption under section 1402(h) of the Internal Revenue Code of 1954 is effective with respect to him.

The provisions of paragraph (4) or (5) shall not apply to service (other than service performed by a member of a religious order who has taken a vow of poverty as a member of such order) performed by an individual unless an exemption under section 1402(e) of the Internal Revenue Code of 1954 is effective with respect to him.

* * * * *

【CREDITING OF SELF-EMPLOYMENT INCOME TO CALENDAR QUARTERS

【SEC. 212. For the purposes of determining average monthly wage and quarters of coverage the amount of self-employment income derived during any taxable year shall be credited to calendar quarters as follows:

【(a) In the case of a taxable year which is a calendar year the self-employment income of such taxable year shall be credited equally to each quarter of such calendar year.

【(b) In the case of any other taxable year the self-employment income shall be credited equally to the calendar quarter in which such taxable year ends and to each of the next three or fewer preceding quarters any part of which is in such taxable year.】

CREDITING OF SELF-EMPLOYMENT INCOME TO CALENDAR YEARS

SEC. 212. (a) For the purposes of determining average monthly wage and quarters of coverage the amount of self-employment income derived during any taxable year which begins before 1978 shall—

(1) in the case of a taxable year which is a calendar year, be credited equally to each quarter of such calendar year; and

(2) in the case of any other taxable year, be credited equally to the calendar quarter in which such taxable year ends and to each of the next three or fewer preceding quarters any part of which is in such taxable year.

(b) For the purposes of determining average indexed monthly earnings, average monthly wage, and quarters of coverage the amount of self-employment income derived during any taxable year which begins after 1977 shall—

(1) in the case of a taxable year which is a calendar year or which begins with or during a calendar year and ends with or during such year, be credited to such calendar year; and

(2) in the case of any other taxable year, be allocated proportionately to the two calendar years, portions of which are included within such taxable year, on the basis of the number of months in each such calendar year which are included completely within the taxable year.

For purposes of clause (2), the calendar month in which a taxable year ends shall be treated as included completely within that taxable year.

QUARTER AND QUARTER OF COVERAGE

Definitions

SEC. 213. (a) For the purposes of this title—

(1) The term “quarter”, and the term “calendar quarter”, means a period of three calendar months ending on March 31, June 30, September 30, or December 31.

[(2) The term “quarter of coverage” means a quarter in which the individual has been paid \$50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 212) with \$100 or more of self-employment income, except that—

[(i) no quarter after the quarter in which such individual died shall be a quarter of coverage, and no quarter any part of which was included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;

[(ii) if the wages paid to any individual in any calendar year equal to \$3,000 in the case of a calendar year before 1951, or \$3,600 in the case of a calendar year after 1960 and before 1955, or \$4,200 in the case of a calendar year after 1954 and before 1959, or \$4,800 in the case of a calendar year after 1958 and before 1966, or \$6,600 in the case of a calendar year after 1965 and before 1968, or \$7,800 in the case of a calendar year after 1967 and before 1972, or \$9,000 in the case of a calendar year after 1971 and before 1973, or \$10,800 in the case of a calendar year after 1972 and before 1974, or \$13,200 in the case of a calendar year after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective, each quarter of such year shall (subject to clause (i)) be a quarter of coverage;

[(iii) if an individual has self-employment income for a taxable year, and if the sum of such income and the wages paid to him during such year equals \$3,600 in the case of a taxable year beginning after 1950 and ending before 1955, or \$4,200 in the case of a taxable year ending after 1954 and before 1959, or \$4,800 in the case of a taxable year ending after 1958 and before 1966, or \$6,600 in the case of a taxable year after 1965 and before 1968, or \$7,800 in the case of a taxable year ending after 1967 and before 1972, or \$9,000 in the case of a taxable year beginning after 1971 and before 1973, or \$10,800 in the case of a taxable year beginning after 1972 and before 1974, or \$13,200 in the case of a taxable year beginning after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section

230) which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1974, each quarter any part of which falls in such year shall (subject to clause (i)) be a quarter of coverage;

[(iv) if an individual is paid wages for agricultural labor in a calendar year after 1954, then, subject to clause (i), (a) the last quarter of such year which can be but is not otherwise a quarter of coverage shall be a quarter of coverage if such wages equal or exceed \$100 but are less than \$200; (b) the last two quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed \$200 but are less than \$300; (c) the last three quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed \$300 but are less than \$400; and (d) each quarter of such year which is not otherwise a quarter of coverage shall be a quarter of coverage if such wages are \$400 or more; and

[(v) no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter.]

(2) (A) *The term "quarter of coverage" means—*

(i) *for calendar years before 1978, and subject to the provisions of subparagraph (B), a quarter in which an individual has been paid \$50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 212) with \$100 or more of self-employment income; and*

(ii) *for calendar years after 1977, and subject to the provisions of subparagraph (B), each portion of the total of the wages paid and the self-employment income credited (pursuant to section 212) to an individual in a calendar year which equals the amount required for a quarter of coverage calendar year (as determined under subsection (e)), with such quarter of coverage being assigned to a specific calendar quarter in such calendar year only if necessary in the case of any individual who has attained age 62 or died or is under a disability and the requirements for insured status in subsection (a) or (b) of section 214, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 216 (i) would not otherwise be met.*

(B) *Notwithstanding the provisions of subparagraph (A)—*

(i) *no quarter after the quarter in which an individual dies shall be in a quarter of coverage, and no quarter any part of which is included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;*

(ii) *if the wages paid to an individual in any calendar year equal to \$3,000 in the case of a calendar year before 1951, or \$3,600 in the case of a calendar year after 1950 and before 1955, or \$4,200 in the case of a calendar year after 1954 and before 1959, or \$4,800 in the case of a calendar year after 1958 and before 1966, or \$6,600 in the case of calendar year after 1965 and before 1968, or \$7,800*

in the case of a calendar year after 1967 and before 1972, or \$9,000 in the case of the calendar year 1972, or \$10,800 in the case of the calendar year 1973, or \$13,200 in the case of the calendar year 1974, or an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective, each quarter of such year shall (subject to clauses (i) and (v)) be a quarter of coverage;

(iii) if an individual has self-employment income for a taxable year, and if the sum of such income and the wages paid to him during such year equals \$3,600 in the case of a taxable year beginning after 1950 and ending before 1955, or \$4,200 in the case of a taxable year ending after 1954 and before 1959, or \$4,800 in the case of a taxable year ending after 1958 and before 1966, or \$6,600 in the case of a taxable year ending after 1965 and before 1968, or \$7,800 in the case of a taxable year ending after 1967 and before 1972, or \$9,000 in the case of a taxable year beginning after 1971 and before 1973, or \$10,800 in the case of a taxable year beginning after 1972 and before 1974, or \$13,200 in the case of a taxable year beginning after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 230) which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1974, each quarter any part of which falls in such year shall (subject to clauses (i) and (v)) be a quarter of coverage;

(iv) if an individual is paid wages for agricultural labor in a calendar year after 1954 and before 1978, then, subject to clauses (i) and (v), (I) the last quarter of such year which can be but is not otherwise a quarter of coverage shall be a quarter of coverage if such wages equal or exceed \$100 but are less than \$200; (II) the last two quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed \$200 but are less than \$300; (III) the last three quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed \$300 but are less than \$400; and (IV) each quarter of such year which is not otherwise a quarter of coverage shall be a quarter of coverage if such wages are \$400 or more;

(v) no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter;

(vi) not more than one quarter of coverage may be credited to a calendar quarter; and

(vii) no more than four quarters of coverage may be credited to any calendar year after 1977.

If in the case of an individual who has attained age 62 or died or is under a disability and who has been paid wages for agricultural labor in a calendar year after 1954 and before 1978, the requirements for insured status in subsection (a) or (b) of section 214, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 216 (i) are not met after assignment of quarters of coverage to quarters in such year as provided in clause (iv) of the preceding sentence, but

would be met if such quarters of coverage were assigned to different quarters in such year, then such quarters of coverage shall instead be assigned, for purposes only of determining compliance with such requirements, to such different quarters. If, in the case of an individual who did not die prior to January 1, 1955, and who attained age 62 (if a woman) or age 65 (if a man) or died before July 1, 1957, the requirements for insured status in section 214(a)(3) are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors, the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned.

* * * * *

Crediting of Certain Federal, State, and Local Service, and Certain Service for Nonprofit Organizations, Performed Prior to Effective Date of Coverage

(d) In the case of any individual who—

(1) (A) performs service in the employ of the United States or any instrumentality thereof (and derives at least six quarters of coverage therefrom) on or after the effective date of the repeal of section 210(a)(5) and (6) by section 301 of the Social Security Financing Amendments of 1977, and

(B) also performed service in the employ of the United States or any instrumentality thereof prior to such date, or

(2) (A) performs service in the employ of a State or political subdivision or any instrumentality of any one or more of the foregoing which is wholly owned thereby (and derives at least six quarters of coverage therefrom) on or after the effective date of the repeal of section 210(a)(7) by section 302 of the Social Security Financing Amendments of 1977, and

(B) also performed service in the employ of a State or political subdivision or any such instrumentality prior to such date, or

(3) (A) performs service in the employ of a religious, charitable, educational, or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from income tax under section 501(a) of such Code (and derives at least six quarters of coverage therefrom) on or after the effective date of the repeal of section 201(a)(8)(B) by section 303 of the Social Security Financing Amendments of 1977, and

(B) also performed service in the employ of such an organization prior to such date,

each calendar quarter in which such individual performed service described in subparagraph (B) of paragraph (1), (2), or (3) (whichever is applicable) shall, if it is not otherwise a quarter of coverage, be treated (under regulations prescribed by the Secretary) as a quarter of coverage for all the purposes of this title.

Amount Required for a Quarter of Coverage

(e) (1) *The amount of wages and self-employment income which an individual must have in order to be credited with a quarter of coverage in any year under subsection (a) (2) (A) (ii) shall be \$250 in the calendar year 1978 and the amount determined under paragraph (2) of this subsection for years after 1978.*

(2) *The Secretary shall, on or before November 1 of 1978 and of every year thereafter, determine and publish in the Federal Register the amount of wages and self-employment income which an individual must have in order to be credited with a quarter of coverage in the succeeding calendar year. The amount required for a quarter of coverage shall be the larger of—*

(A) *the amount in effect in the calendar year in which the determination under this subsection is made, or*

(B) *the product of the amount prescribed in paragraph (1) which is required for a quarter of coverage in 1978 and the ratio of the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the year in which the determination under this paragraph is made to the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for 1976 (as published in the Federal Register in accordance with section 215(a) (1) (D)),*

with such product, if not a multiple of \$10, being rounded to the next higher multiple of \$10 where such amount is a multiple of \$5 but not of \$10 and to the nearest multiple of \$10 in any other case.

* * * * *

COMPUTATION OF PRIMARY INSURANCE AMOUNT

SEC. 215. For the purposes of this title—

[(a) The primary insurance amount of an insured individual shall be determined as follows:

[(1) Subject to the conditions specified in subsections (b), (c), and (d) of this section and except as provided in paragraphs (2) and (3) of this subsection, such primary insurance amount shall be whichever of the following amounts is the largest:

[(A) the amount in column IV of the following table (or, if larger, the amount in column IV of the latest table deemed to be such table under subsection (i) (2) (D)) on the line on which in column III of such table appears his average monthly wage (as determined under subsection (b));

[(B) the amount in column IV of such table on the line on which in column II appears his primary insurance amount (as determined under subsection (c)); or

[(C) the amount in column IV of such table on the line on which in column I appears his primary insurance benefit (as determined under subsection (d)).

[(2) In the case of an individual who was entitled to a disability insurance benefit for the month before the month in which he died, became entitled to old-age insurance benefits, or attained age 65, such primary insurance amount shall be—

[(A) the amount in column IV of such table which is equal to the primary insurance amount upon which such disability insurance benefit is based; except that if such individual was entitled to a disability insurance benefit under section 223 for the month before the effective month of a new table (whether enacted by another law or deemed to be such table under subsection (i) (2) (D)), and in the following month became entitled to an old-age insurance benefit, or he died in such following month, then his primary insurance amount for such following month shall be the amount in column IV of the new table on the line on which in column II of such table appears his primary insurance amount for the month before the effective month of the table (as determined under subsection (c)) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based. For purposes of this paragraph, the term “primary insurance amount” with respect to any individual means only a primary insurance amount determined under paragraph (1) (and such individual’s benefits shall be deemed to be based upon the primary insurance amount as so determined); or

[(B) an amount equal to the primary insurance amount upon which such disability insurance benefit is based if such primary insurance amount was determined under paragraph (3).

[(3) Such primary insurance amount shall be an amount equal to \$9.00 multiplied by the individual’s years of coverage in excess of 10 in any case in which such amount is higher than the individual’s primary insurance amount as determined under paragraph (1) or (2).

[(For purposes of paragraph (3), an individual’s “years of coverage” is the number (not exceeding 30) equal to the sum of (i) the number (not exceeding 14 and disregarding any fraction) determined by dividing the total of the wages credited to him (including wages deemed to be paid prior to 1951 to such individual under section 217, compensation under the Railroad Retirement Act of 1937 prior to 1951 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 231) for years after 1936 and before 1951 by \$900, plus (ii) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b) (2) (C)) and in each of which he is credited with wages (including wages deemed to be paid to such individual under section 217, compensation under the Railroad Retirement Act of 1937 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 229) and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e), may be counted for such year.

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS BEGINNING JUNE 1976

I (Primary insurance benefit under 1939 Act, as modified)		II (Primary insurance amount effective for June 1975)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
-----	\$16.20	\$101.40	-----	\$76	\$107.90	\$161.90
\$16.21	16.84	103.00	\$77	78	106.90	164.40
16.85	17.60	105.30	79	80	112.10	168.30
17.61	18.40	107.30	81	82	114.20	171.40
18.41	19.24	109.20	83	84	116.20	174.40
19.25	20.00	111.50	85	86	118.70	178.10
20.01	20.64	113.60	87	88	120.90	181.40
20.65	21.28	115.40	89	90	122.80	184.20
21.29	21.88	117.70	91	92	125.30	188.00
21.89	22.28	119.70	93	94	127.40	191.10
22.29	22.68	121.70	95	96	129.50	194.30
22.69	23.08	123.60	97	98	131.60	197.40
23.09	23.44	125.90	99	100	134.00	201.00
23.45	23.76	128.00	101	102	136.20	204.40
23.77	24.20	130.50	103	104	138.90	208.40
24.21	24.60	132.30	105	106	140.80	211.40
24.61	25.00	134.50	107	108	143.20	214.80
25.01	25.48	137.00	109	110	145.80	218.70
25.49	25.92	139.20	111	112	148.20	222.30
25.93	26.40	141.40	113	114	150.50	225.80
26.41	26.94	143.60	115	116	152.80	229.20
26.95	27.46	145.60	117	118	155.00	232.50
27.47	28.00	147.90	119	120	157.40	236.20
28.01	28.00	150.10	121	122	159.80	239.70
28.69	29.25	152.40	123	124	162.20	243.40
29.26	29.68	154.50	125	126	164.40	246.70
29.69	30.36	156.50	127	128	166.60	249.90
30.37	30.92	158.90	129	130	169.10	253.70
30.93	31.36	161.10	131	132	171.50	257.30
31.37	32.00	163.10	133	134	173.60	260.40
32.01	32.60	165.50	135	136	176.10	264.20
32.61	33.20	167.60	137	138	178.40	267.60
33.21	33.88	169.80	139	140	180.70	271.10
33.89	34.50	172.00	141	142	183.10	275.70
34.51	35.00	174.10	143	144	185.30	278.00
35.01	35.80	176.50	145	146	187.80	281.80
35.81	36.40	178.50	147	148	190.00	285.00
36.41	37.08	180.90	149	150	192.50	289.00
37.09	37.60	183.10	151	152	194.90	292.40
37.61	38.20	185.20	153	154	197.10	295.70
38.21	39.12	187.60	155	156	199.70	299.60
39.13	39.68	189.80	157	158	202.00	303.00
39.69	40.33	191.60	159	160	203.90	305.90
40.34	41.12	194.00	161	162	206.50	309.80
41.13	41.76	196.20	163	164	208.80	313.20
41.77	42.44	198.60	165	166	211.40	317.10
42.45	43.20	200.70	167	168	213.60	320.40
43.21	43.76	203.20	169	170	216.30	324.50
43.77	44.44	205.10	171	172	218.30	328.90
44.45	44.88	207.10	173	174	220.40	335.70
44.89	45.60	209.70	175	176	223.20	341.20
		211.80	177	178	225.40	347.90
		213.60	179	180	227.30	354.50
		216.20	181	182	230.10	359.90
		218.30	183	184	232.30	366.70
		220.60	185	186	234.80	373.30
		222.70	187	188	237.00	378.70
		224.90	189	190	239.30	385.50
		227.30	191	192	241.90	392.30
		229.20	193	194	243.90	397.60
		231.60	195	196	246.50	404.30
		233.80	197	198	248.80	411.10

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS BEGINNING JUNE 1976—Continued

I	II	III	IV	V
(Primary insurance benefit under 1939 Act, as modified)	(Primary insurance amount effective for June 1975)	(Average monthly wage)	(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—	Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—	The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—	At least—	But not more than—	
	235.80	306	309	250.90
	238.20	310	314	253.50
	240.20	315	319	255.60
	242.30	320	323	257.90
	244.70	324	328	260.40
	246.80	329	333	262.60
	249.30	334	337	265.30
	251.10	338	342	267.20
	253.30	343	347	269.60
	255.80	348	351	272.20
	247.80	352	356	274.30
	260.20	357	361	276.90
	262.30	362	365	279.10
	264.30	366	370	281.30
	266.70	371	375	283.80
	268.90	376	379	286.20
	271.20	380	384	288.60
	273.20	385	389	290.70
	275.30	390	393	293.00
	277.70	394	398	295.50
	279.80	399	403	297.80
	282.30	404	407	300.40
	284.10	408	412	302.30
	286.10	413	417	304.50
	288.20	418	421	306.70
	290.50	422	426	309.10
	292.40	427	431	311.20
	294.20	432	436	313.10
	296.70	437	440	315.70
	298.50	441	445	317.70
	300.50	446	450	319.80
	302.80	451	454	322.20
	304.70	455	459	324.30
	306.80	460	464	326.50
	308.70	465	468	328.50
	311.10	469	473	331.10
	312.80	474	478	332.90
	314.90	479	482	335.10
	317.10	483	487	337.40
	319.10	488	492	339.60
	321.10	493	496	341.70
	323.40	497	501	344.10
	325.20	502	506	346.10
	327.30	507	510	348.30
	329.30	511	515	350.40
	331.50	516	520	352.80
	333.40	521	524	354.80
	335.50	525	529	357.00
	337.80	530	534	359.50
	339.60	535	538	361.40
	341.70	539	543	363.60
	343.90	544	548	366.00
	345.90	549	553	368.10
	347.90	554	556	370.20
	349.50	557	560	371.90
	351.50	561	563	374.00
	353.30	564	567	376.00
	355.20	568	570	378.00
	356.90	571	574	379.80
	358.80	575	577	381.80
	360.40	578	581	383.50
	362.40	582	584	385.60
	364.00	585	588	387.30
				689.90

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS BEGINNING JUNE 1976—Continued

I (Primary insurance benefit under 1939 Act, as modified)	II (Primary insurance amount effective for June 1975)	III (Average monthly wage)	IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—	Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—	The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—	At least—	But not more than—	
	366.10	589	591	691.90
	367.90	592	595	694.60
	369.70	596	598	696.50
	371.50	599	602	699.40
	373.30	603	605	701.40
	375.10	606	609	703.90
	377.00	610	612	706.10
	378.80	613	616	708.80
	380.60	617	620	711.50
	382.40	621	623	713.50
	384.20	624	627	716.20
	386.00	628	630	718.70
	387.80	631	634	722.20
	389.70	635	637	725.60
	391.70	638	641	729.10
	393.30	642	644	732.30
	395.20	645	648	735.90
	396.90	649	652	739.10
	398.10	653	656	741.20
	399.20	657	660	743.30
	400.60	661	665	746.00
	402.00	666	670	748.70
	403.50	671	675	751.20
	404.90	676	680	754.00
	406.30	681	685	756.70
	407.90	686	690	759.30
	409.30	691	695	762.10
	410.70	696	700	764.70
	412.20	701	705	767.40
	413.60	706	710	770.00
	415.00	711	715	772.70
	416.50	716	720	775.40
	417.90	721	725	778.00
	419.30	726	730	780.80
	420.70	731	735	783.50
	422.20	736	740	786.10
	423.60	741	745	788.90
	425.00	746	750	791.50
	426.30	751	755	793.80
	427.50	756	760	796.00
	428.70	761	765	798.30
	429.90	766	770	800.50
	431.10	771	775	802.70
	432.30	776	780	804.90
	433.50	781	785	807.10
	434.60	786	790	809.30
	435.80	791	795	811.60
	437.00	796	800	813.80
	438.30	801	805	816.10
	439.50	806	810	818.30
	440.70	811	815	820.60
	441.90	816	820	822.70
	443.10	821	825	825.10
	444.30	826	830	827.20
	445.40	831	835	829.50
	446.60	836	840	831.70
	447.80	841	845	834.00
	449.00	846	850	836.00
	450.30	851	855	838.40
	451.50	856	860	840.60
	452.70	861	865	842.80
	453.90	866	870	845.10
	455.10	871	875	847.30

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS BEGINNING JUNE 1976—Continued

I (Primary insurance benefit under 1939 Act, as modified)		II (Primary insurance amount effective for June 1975)		III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—		Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—			At least—	But not more than—		
		456.20		876	880	485.40	849.50
		457.40		881	885	486.70	851.80
		458.60		886	890	488.00	854.00
		459.80		891	895	489.30	856.40
		461.00		896	900	490.60	858.50
		462.30		901	905	491.90	860.80
		463.50		906	910	493.20	863.00
		464.70		911	915	494.50	865.30
		465.90		916	920	495.80	867.30
		467.00		921	925	496.90	869.70
		468.20		926	930	498.20	871.80
		469.40		931	935	499.50	874.10
		470.60		936	940	500.80	876.30
		471.80		941	945	502.00	878.60
		473.00		946	950	503.30	880.80
		474.30		951	955	504.70	883.10
		475.50		956	960	506.00	885.30
		476.70		961	965	507.30	887.50
		477.80		966	970	508.40	889.80
		479.00		971	975	509.70	892.00
		480.20		976	980	511.00	894.10
		481.40		981	985	512.30	896.40
		482.60		986	990	513.50	898.60
		483.80		991	995	514.80	900.90
		485.00		966	1,000	516.10	903.10
		486.00	1,001	1,001	1,005	517.20	905.00
		487.10	1,006	1,006	1,010	518.30	907.10
		488.20	1,011	1,011	1,015	519.50	909.00
		489.30	1,016	1,016	1,020	520.70	911.20
		490.40	1,021	1,021	1,025	521.80	913.10
		491.40	1,026	1,026	1,030	522.90	915.20
		492.50	1,031	1,031	1,035	524.10	917.10
		493.60	1,036	1,036	1,040	525.20	919.10
		494.70	1,041	1,041	1,045	526.40	921.20
		495.80	1,046	1,046	1,050	527.60	923.20
		496.80	1,051	1,051	1,055	528.60	925.10
		497.90	1,056	1,056	1,060	529.80	927.20
		499.00	1,061	1,061	1,065	531.00	929.10
		500.10	1,066	1,066	1,070	532.20	931.30
		501.20	1,071	1,071	1,075	533.30	933.20
		502.20	1,076	1,076	1,080	534.40	935.30
		503.30	1,081	1,081	1,085	535.60	937.20
		504.40	1,086	1,086	1,090	536.70	939.20
		505.50	1,091	1,091	1,095	537.90	941.30
		506.60	1,096	1,096	1,100	539.10	943.30
		507.60	1,101	1,101	1,105	540.10	945.20
		508.70	1,106	1,106	1,110	541.30	947.30
		509.80	1,111	1,111	1,115	542.50	949.20
		510.90	1,116	1,116	1,120	543.60	951.40
		512.00	1,121	1,121	1,125	544.80	953.30
		513.00	1,126	1,126	1,130	545.90	955.40
		514.10	1,131	1,131	1,135	547.10	957.30
		515.20	1,136	1,136	1,140	548.20	959.40
		516.30	1,141	1,141	1,145	549.40	961.40
		517.40	1,146	1,146	1,150	550.60	963.40
		518.40	1,151	1,151	1,155	551.60	965.30
		519.50	1,156	1,156	1,160	552.80	967.40
		520.60	1,161	1,161	1,165	554.00	969.40
		521.70	1,166	1,166	1,170	555.10	971.50
		522.80	1,171	1,171	1,175	556.30	973.40
		523.80	1,176	1,176	1,180	557.40	975.40
		524.80	1,181	1,181	1,185	558.40	977.20
		525.80	1,186	1,186	1,190	559.50	979.10

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS BEGINNING JUNE 1976—Continued

I (Primary insurance benefit under 1939 Act, as modified)	II (Primary insurance amount effective for June 1975)	III (Average monthly wage)	IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—	Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—	The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wage and self-employment income shall be—
At least—	But not more than—	At least—	But not more than—	0
	526.80	1, 191	1, 195	560.60
	527.80	1, 196	1, 200	561.60
	528.80	1, 201	1, 205	562.70
	529.80	1, 206	1, 210	563.80
	530.80	1, 211	1, 215	564.80
	531.80	1, 216	1, 220	565.90
	532.80	1, 221	1, 225	566.90
	533.80	1, 226	1, 230	568.00
	534.80	1, 231	1, 235	569.10
	535.80	1, 226	1, 240	570.10
	536.80	1, 241	1, 245	571.20
	537.80	1, 246	1, 250	572.30
	538.80	1, 251	1, 255	573.30
	539.80	1, 256	1, 260	574.40
	540.80	1, 261	1, 265	575.50
	541.80	1, 266	1, 270	575.50
	542.80	1, 271	1, 275	577.60
		1, 276	1, 280	578.60
		1, 281	1, 285	579.60
		1, 286	1, 290	580.60
		1, 291	1, 295	581.60
		1, 296	1, 300	582.60
		1, 301	1, 305	583.60
		1, 306	1, 310	584.60
		1, 311	1, 315	585.60
		1, 316	1, 320	586.60
		1, 321	1, 325	587.60
		1, 326	1, 330	588.60
		1, 331	1, 335	589.60
		1, 336	1, 340	590.60
		1, 341	1, 345	591.60
		1, 346	1, 350	592.60
		1, 351	1, 355	593.60
		1, 356	1, 360	594.60
		1, 361	1, 365	595.60
		1, 366	1, 370	596.60
		1, 371	1, 375	597.60
				1, 015.80

[(Average Monthly Wage

[(b) (1) For the purposes of column III of the table appearing in subsection (a) of this section, an individual's "average monthly wage" shall be the quotient obtained by dividing—

[(A) the total of his wages paid in and self-employment income credited to his "benefit computation years" (determined under paragraph (2)), by

[(B) the number of months in such years.

[(2) (A) The number of an individual's "benefit computation years" shall be equal to the number of elapsed years (determined under paragraph (3) of this subsection), reduced by five, except that the number of an individual's benefit computation years shall in no case be less than two.

[(B) An individual's "benefit computation years" shall be those computation base years, equal in number to the number determined under subparagraph (A), for which the total of his wages and self-employment income is the largest.

[(C) For purposes of subparagraph (B), "computation base years" include only calendar years in the period after 1950 and prior to the earlier of the following years—

[(i) the year in which occurred (whether by reason of section 202(j) (1) or otherwise) the first month for which the individual was entitled to old-age insurance benefits, or

[(ii) the year succeeding the year in which he died.

Any calendar year all of which is included in a period of disability shall not be included as a computation base year.

[(3) For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 (or, if later, the year in which he attained age 21) and before the year in which he died, or if it occurred earlier but after 1960, the year in which he attained age 62.¹ For purposes of the preceding sentence, any calendar year any part of which was included in a period of disability shall not be included in such number of calendar years.

[(4) The provisions of this subsection shall be applicable only in the case of an individual—

[(A) who becomes entitled to benefits under section 202(a) or section 223 in or after the month in which a new table that appears in (or is deemed by subsection (i) (2) (D) to appear in) section (a) becomes effective; or

[(B) who dies in or after the month in which such table becomes effective without being entitled to benefits under section 202(a) or section 223; or

[(C) whose primary insurance amount is required to be recomputed under subsection (f) (2).

[(Primary Insurance Amount Under Prior Provisions

[(c) (1) For the purpose of column II of the latest table that appears in (or is deemed to appear in) subsection (a) of this section, an individual's primary insurance amount shall be computed on the basis of the law in effect prior to the month in which the latest such table became effective.

[(2) The provisions of this subsection shall be applicable only in the case of an individual who became entitled to benefits under section 202(a) or section 223, or who died, before such effective month.]

(a) (1) (A) *The primary insurance amount of an individual shall (except as otherwise provided in this section) be equal to the sum of—*

(i) *90 percent of the individual's average indexed monthly earnings (determined under subsection (b)) to the extent that such earnings do not exceed the amount established for purposes of this clause by subparagraph (B),*

(ii) *32 percent of the individual's average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (i) but do not exceed the amount established for purposes of this clause by subparagraph (B), and*

(iii) 15 percent of the individual's average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (ii), rounded in accordance with subsection (g), and thereafter increased as provided in subsection (i).

(B) (i) For individuals who initially become eligible for old-age or disability insurance benefits or die in the calendar year 1979, the amounts established for purposes of clauses (i) and (ii) of subparagraph (A) shall be \$180 and \$1,085, respectively.

(ii) For individuals who initially become eligible for old-age or disability insurance benefits or die in any calendar year after 1979, each of the amounts so established shall equal the product of the corresponding amount established with respect to the calendar year 1979 under clause (i) of this subparagraph and the quotient obtained by dividing—

(I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the second calendar year preceding the calendar year for which the determination is made, by

(II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year 1977.

(iii) Each amount established under clause (ii) for any calendar year shall be rounded to the nearest \$1, except that any amount so established which is a multiple of \$0.50 but not of \$1 shall be rounded to the next higher \$1.

(C) (i) No primary insurance amount computed under subparagraph (A) may be less than—

(I) the dollar amount set forth on the first line of column IV in the table of benefits contained in (or deemed to be contained in) this subsection as in effect in December 1978, rounded (if not a multiple of \$1) to the next higher multiple of \$1, or

(II) an amount equal to \$11.50 multiplied by the individual's years of coverage in excess of 10, or the increased amount determined for purposes of this subdivision under subsection (i), whichever is greater. No increase under subsection (i), occurring before the year in which an individual becomes eligible for old-age or disability insurance benefits or dies, shall apply to the dollar amount specified in subdivision (I) of this clause with respect to such individual.

(ii) For purposes of clause (i) (II), the term 'years of coverage' with respect to any individual means the number (not exceeding 30) equal to the sum of (I) the number (not exceeding 14 and disregarding any fraction) determined by dividing (a) the total of the wages credited to such individual (including wages deemed to be paid prior to 1951 to such individual under section 217, compensation under the Railroad Retirement Act of 1937 prior to 1951 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 231) for years after 1936 and before 1951 by (b) \$900, plus (II) the number equal to

number of years after 1950 each of which is a computation base year (within the meaning of subsection (b)(2)(B)(ii)) and in each of which he is credited with wages (including wages deemed to be paid to such individual under section 217, compensation under the Railroad Retirement Act of 1937 or 1974 which is creditable to such individual pursuant to this title, and wages deemed to be paid to such individual under section 229) and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e), may be counted for such year, of not less than 25 percent of the maximum amount which could be so counted for such year (in the case of a year after 1977) if section 230 as in effect immediately prior to the enactment of the Social Security Financing Amendments of 1977 had remained in effect without charge.

(D) In each calendar year after 1978 the Secretary shall publish in the Federal Register, on or before November 1, the formula for computing benefits under this paragraph and for adjusting wages and self-employment income under subsection (b)(3) in the case of an individual who becomes eligible for an old-age insurance benefit, or (if earlier) becomes eligible for a disability insurance benefit or dies, in the following year, and the average of the total wages (as described in subparagraph (B)(ii)(I)) on which that formula is based. With the initial publication required by this subparagraph, the Secretary shall also publish in the Federal Register the average of the total wages (as so described) for each calendar year after 1950.

(2)(A) A year shall not be counted as the year of an individual's death or eligibility for purposes of this subsection or subsection (b) or (i) in any case where such individual was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month of such death or eligibility (but there shall be counted instead the year of the individual's eligibility for the disability insurance benefit or benefits to which he was entitled during such 12 months).

(B) In the case of an individual who was entitled to a disability insurance benefit for any of the 12 months before the month in which he became entitled to an old-age insurance benefit, became reentitled to a disability insurance benefit, or died, the primary insurance amount for determining any benefit attributable to that entitlement, reentitlement, or death is the greater of—

(i) the primary insurance amount upon which such disability insurance benefit was based, increased by the amount of each general benefit increase (as defined in subsection (i)(3)), and each increase provided under subsection (i)(2), that would have applied to such primary insurance amount had the individual remained entitled to such disability insurance benefit until the month in which he became so entitled or reentitled or died, or

(ii) the amount computed under paragraph (1)(C).

(C) In the case of an individual who was entitled to a disability insurance benefit for any month, and with respect to whom a primary insurance amount is required to be computed at any time after the close of the period of the individual's disability (whether because of such individual's subsequent entitlement to old-age insurance benefits or to a disability insurance benefit based upon a subsequent period of dis-

ability, or because of such individual's death), the primary insurance amount so computed may in no case be less than the primary insurance amount with respect to which such former disability insurance benefit was most recently determined.

(3) (A) Paragraph (1) applies only to an individual who was not eligible for an old-age insurance benefit prior to January 1979 and who in that or any succeeding month—

- (i) becomes eligible for such a benefit,
- (ii) becomes eligible for a disability insurance benefit, or
- (iii) dies,

and (except for subparagraph (C) (i) (II) thereof) it applies to every such individual except to the extent otherwise provided by paragraph (4).

(B) For purposes of this title, an individual is deemed to be eligible—

(i) for old-age insurance benefits, for months beginning with the month in which he attains age 62, or

(ii) for disability insurance benefits, for months beginning with the month in which his period of disability began as provided under section 216(i) (2) (C),

except as provided in paragraph (2) (A) in cases where fewer than 12 months have elapsed since the termination of a prior period of disability.

(4) Paragraph (1) (except for subparagraph (C) (i) (II) thereof) does not apply to the computation or recomputation of a primary insurance amount for—

(A) an individual who was eligible for a disability insurance benefit for a month prior to January 1979 unless, prior to the month in which occurs the event described in clause (i), (ii), or (iii) of paragraph (3) (A), there occurs a period of at least 12 consecutive months for which he was not entitled to a disability insurance benefit, or

(B) an individual who had wages or self-employment income credited for one or more years prior to 1979, and who was not eligible for an old-age or disability insurance benefit, and did not die, prior to January 1979, if in the year for which the computation or recomputation would be made the individual's primary insurance amount would be greater if computed or recomputed—

(i) under section 215(a) as in effect in December 1978, for purposes of old-age insurance benefits in the case of an individual who becomes eligible for such benefits prior to 1989, or

(ii) as provided by section 215(d), in the case of an individual to whom such section applies.

In determining whether an individual's primary insurance amount would be greater if computed or recomputed as provided in subparagraph (B), (1) the table of benefits in effect in December 1978 shall be applied without regard to any increases in that table which may become effective (in accordance with subsection (i) (4)) for years after

1978 (subject to subsection (i) (2) (A) (iii)), and (II) such individual's average monthly wage shall be computed as provided by subsection (b) (4).

(5) For purposes of computing the primary insurance amount (after December 1978) of an individual to whom paragraph (1) does not apply (other than an individual described in paragraph (4) (B)), this section as in effect in December 1978 shall remain in effect, except that, effective for January 1979, the dollar amount specified in paragraph (3) of subsection (a) shall be increased to \$11.50. The table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978.

Average Indexed Monthly Earnings; Average Monthly Wage

(b) (1) An individual's average indexed monthly earnings shall be equal to the quotient obtained by dividing—

(A) the total (after adjustment under paragraph (3)) of his wages paid in and self-employment income credited to his benefit computation years (determined under paragraph (2)), by

(B) the number of months in those years.

(2) (A) The number of an individual's benefit computation years equals the number of elapsed years, reduced by five, except that the number of an individual's benefit computation years may not be less than two.

(B) For purposes of this subsection with respect to any individual—

(i) the term "benefit computation years" means those computation base years, equal in number to the number determined under subparagraph (A), for which the total of such individual's wages and self-employment income, after adjustment under paragraph (3), is the largest;

(ii) the term "computation base years" means the calendar years after 1950 and before—

(I) in the case of an individual entitled to old-age insurance benefits, the year in which occurred (whether by reason of section 202(j) (1) or otherwise) the first month of that month of that entitlement; or

(II) in the case of an individual who has died (without having become entitled to old-age insurance benefits), the year succeeding the year of his death;

except that such term excludes any calendar year entirely included in a period of disability; and

(iii) the term "number of elapsed years" means (except as otherwise provided by section 104(j) (2) of the Social Security Amendments of 1972) the number of calendar years after 1950 (or, if later, the year in which the individual attained age 21) and before the year in which the individual died, or, if it occurred earlier but after 1960, the year in which he attained age 62; except that such term excludes any calendar year any part of which is included in a period of disability.

(3) (A) Except as provided by subparagraph (B), the wages paid in and self-employment income credited to each of an individual's computation base years for purposes of the selection therefrom of

benefit computation years under paragraph (2) shall be deemed to be equal to the product of—

(i) the wages and self-employment income paid in or credited to such year (as determined without regard to this subparagraph), and

(ii) the quotient obtained by dividing—

(I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the second calendar year (after 1976) the year of the individual's death or initial eligibility for an old-age or disability insurance benefit, whichever is earliest, by

(II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the computation base year for which the determination is made.

(B) Wages paid in or self-employment income credited to an individual's computation base year which—

(i) occurs after the second calendar year specified in subparagraph (A) (ii) (I), or

(ii) is a year treated under subsection (f) (2) (C) as though it were the last year of the period specified in subsection (b) (2) (B) (ii),

shall be available for use in determining an individual's benefit computation years, but without applying subparagraph (A) of this paragraph.

(4) For purposes of determining the average monthly wage of an individual whose primary insurance amount is computed (after 1978) under section 215(a) or 215(d) as in effect (except with respect to the tables contained therein) in December 1978, by reason of subsection (a) (4) (B), this subsection as in effect in December 1978 shall remain in effect, except that paragraph (2) (C) (as then in effect) shall be deemed to provide that "computation base years" include only calendar years in the period after 1950 (or 1936, if applicable) and prior to the year in which occurred the first month for which the individual was eligible (as defined in subsection (a) (3) (B) as in effect in January 1979) for an old-age or disability insurance benefit, or died. Any calendar year all of which is included in a period of disability shall not be included as a computation base year for such purposes.

Application of Prior Provisions in Certain Cases

(c) This subsection as in effect in December 1978 shall remain in effect with respect to an individual to whom subsection (a) (1) does not apply by reason of the individual's eligibility for an old-age or disability insurance benefit, or the individual's death, prior to 1979.

Primary Insurance Benefit Under 1939 Act

[(d) (1) For purposes of column I of the table appearing in subsection (a) of this section, an individual's primary insurance benefit shall be computed as follows:

[(A) The individual's average monthly wage shall be determined as provided in subsection (b) (but without regard to paragraph (4) thereof) of this section, except that for purposes of paragraph (2) (C) and (3) of such subsection, 1936 shall be used instead of 1950.

[(B) For purposes of subparagraphs (B) and (C) of subsection (b) (2), an individual whose total wages prior to 1951 (as defined in subparagraph (C) of this subsection)—

[(i) do not exceed \$27,000 shall be deemed to have been paid such wages in equal parts in nine calendar years after 1936 and prior to 1951;

[(ii) exceed \$27,000 and are less than \$42,000 shall be deemed to have been paid (I) \$3,000 in each of such number of calendar years after 1936 and prior to 1951 as is equal to the integer derived by dividing such total wages by \$3,000, and (II) the excess of such total wages over the product of \$3,000 times such integer, in an additional calendar year in such period; or

[(iii) are at least \$42,000 shall be deemed to have been paid \$3,000 in each of the fourteen calendar years after 1936 and prior to 1951.]

(d) (1) *For purposes of column I of the table appearing in subsection (a), as that subsection was in effect in December 1977, an individual's primary insurance benefit shall be computed as follows:*

(A) *The individual's average monthly wage shall be determined as provided in subsection (b), as in effect in December 1977 (but without regard to paragraph (4) thereof), except that for purposes of paragraphs (2) (C) and (3) of that subsection (as so in effect) 1936 shall be used instead of 1950.*

(B) *For purposes of subparagraphs (B) and (C) of subsection (b) (2) (as so in effect), the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who attained age 21 after 1936 and prior to 1951 shall be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the year in which the individual attained age 21 and prior to the earlier of 1951 or the year of the individual's death. The quotient so obtained shall be deemed to be the individual's wages credited to each of the years included in the divisor, except that—*

(i) if the quotient exceeds \$3,000, only \$3,000 shall be deemed to be the individual's wages for each of years included in the divisor, and the remainder of the individual's total wages prior to 1951 (I) if less than \$3,000, shall be deemed credited to the year in which the individual attained age 21, or (II) if \$3,000 or more, shall be deemed credited, in \$3,000 increments, to the year in which the individual attained age 21 and to each year consecutively preceding that year, with any remainder less than \$3,000 being credited to the year immediately preceding the earliest year to which a full \$3,000 increment was credited; and

(ii) no more than \$42,000 may be taken into account, for purposes of this subparagraph, as total wages after 1936 and prior to 1951.

(C) For the purposes of subparagraph (B), "total wages prior to 1951" with respect to an individual means the sum of (i) remuneration credited to such individual prior to 1951 on the records of the Secretary, (ii) wages deemed paid prior to 1951 to such individual under section 217, (iii) compensation under the Railroad Retirement Act of 1937 prior to 1951 creditable to him pursuant to this title, and (iv) wages deemed paid prior to 1951 to such individual under section 231.

[(D) The individual's primary insurance benefits shall be 45.6 per centum of the first \$50 of his average monthly wage as computed under this subsection, plus 114.4 per centum of the next \$200 of such average monthly wage.]

(D) The individual's primary insurance benefit shall be 40 percent of the first \$50 of his average monthly wage as computed under this subsection, plus 10 percent of the next \$200 of his average monthly wage, increased by 1 percent for each increment year. The number of increment years is the number, not more than 14 nor less than 4, that is equal to the individual's total wages prior to 1951 divided by \$1,650 (disregarding any fraction).

(2) The provisions of this subsection shall be applicable only in the case of an individual—

(A) with respect to whom at least one of the quarters elapsing prior to 1951 is a quarter of coverage;

(B) except as provided in paragraph (3), who attained age 22 after 1950 and with respect to whom less than six of the quarters elapsing after 1950 are quarters of coverage, or who attained such age before 1951; and

(C) (i) who becomes entitled to benefits under section 202(a) or 223 after the date of the enactment of the Social Security Amendments of 1967, or

(ii) who dies after such date without being entitled to benefits under section 202(a) or 223, or

(iii) whose primary insurance amount is required to be recomputed under section 215(f)(2) or (6), or section 231.

(3) The provisions of this subsection as in effect prior to the enactment of the Social Security Amendments of 1967 shall be applicable [in the case of an individual—

[(A) who attained age 21 after 1936 and prior to 1951, or

[(B) who had a period of disability which began prior to 1951, but only if the primary insurance amount resulting therefrom is higher than the primary insurance amount resulting from the application of this section (as amended by the Social Security Amendments of 1967) and section 220] *in the case of an individual who had a period of disability which began prior to 1951, but only if the primary insurance amount resulting therefrom is higher than the primary insurance amount resulting from the application of this section (as amended by the Social Security Amendments of 1967) and section 220.*

(4) The provisions of this subsection as in effect in December 1977 shall be applicable to individuals who become eligible for old-age or disability insurance benefits or die prior to 1978.

Certain Wages and Self-Employment Income Not To Be Counted

(e) For the purposes of subsections (b) and (d)—

(1) in computing an individual's [average monthly wage] *average indexed monthly earnings or, in the case of an individual whose primary insurance amount is computed under section 215 (a) as in effect prior to January 1979, average monthly wage*, there shall not be counted the excess over \$3,600 in the case of any calendar year after 1950 and before 1955, the excess over \$4,200 in the case of any calendar year after 1954 and before 1959, the excess over \$4,800 in the case of any calendar year after 1958 and before 1966, the excess over \$6,600 in the case of any calendar year after 1966 and before 1968, the excess over \$7,800 in the case of any calendar year after 1967 and before 1972, the excess over \$9,000 in the case of any calendar year after 1971 and before 1973, the excess over \$10,800 in the case of any calendar year after 1972 and before 1974, the excess over \$13,200 in the case of any calendar year after 1973 and before 1975, and the excess over an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective (before the application, in the case of average indexed monthly earnings, of subsection (b)(3)(A)) of (A) the wages paid to him in such year, plus (B) the self-employment income credited to such year (as determined under section 212); and

(2) if an individual's [average monthly wage] *average indexed monthly earnings or, in the case of an individual whose primary insurance amount is computed under section 215(a) as in effect prior to January 1979, average monthly wage*, computed under subsection (b) or for the purposes of subsection (d) is not a multiple of \$1, it shall be reduced to the next lower multiple of \$1.

Recomputation of Benefits

(f)(1) After an individual's primary insurance amount has been determined under this section, there shall be no recomputation of such individual's primary insurance amount except as provided in this subsection or, in the case of a World War II veteran who died prior to July 27, 1954, as provided in section 217(b).

[(2) If an individual has wages or self-employment income for a year after 1965 for any part of which he is entitled to old-age insurance benefits, the Secretary shall, at such time or times and within such period as he may by regulations prescribe, recompute such individual's primary insurance amount with respect to each such year. Such recomputation shall be made as provided in subsections (a)(1)(A) and (C) and (a)(3) as though the year with respect to which such recomputation is made is the last year of the period specified in subsection (b)(2)(C). A recomputation under this paragraph with respect to any year shall be effective—

[(A) in the case of an individual who did not die in such year, for monthly benefits beginning with benefits for January of the following year; or

[(B) in the case of an individual who died in such year, for monthly benefits beginning with benefits for the month in which he died.]

(2) (A) *If an individual has wages or self-employment income for a year after 1978 for any part of which he is entitled to old-age or disability insurance benefits, the Secretary shall, at such time or times and within such period as he may by regulation prescribe, recompute the individual's primary insurance amount for that year.*

(B) *For the purpose of applying subparagraph (A) of subsection (a) (1) to the average indexed monthly earnings of an individual to whom that subsection applies and who receives a recomputation under this paragraph, there shall be used, in lieu of the amounts established by subsection (a) (1) (B) for purposes of clauses (i) and (ii) of subsection (a) (1) (A), the amounts so established that were (or, in the case of an individual described in subsection (a) (4) (B), would have been) used in the computation of such individual's primary insurance amount prior to the application of this subsection.*

(C) *A recomputation of any individual's primary insurance amount under this paragraph shall be made as provided in subsection (a) (1) as though the year with respect to which it is made is the last year of the period specified in subsection (b) (2) (B) (ii); and subsection (b) (3) (A) shall apply with respect to any such recomputation as it applied in the computation of such individual's primary insurance amount prior to the application of this subsection.*

(D) *A recomputation under this paragraph with respect to any year shall be effective—*

(i) *in the case of an individual who did not die in that year, for monthly benefits beginning with benefits for January of the following year; or*

(ii) *in the case of an individual who died in that year, for monthly benefits beginning with benefits for the month in which he died.*

[(3) In the case of any individual who became entitled to old-age insurance benefits in 1952 or in a taxable year which began in 1952 (and without the application of section 202(j)(1)), or who died in 1952 or in a taxable year which began in 1952 but did not become entitled to such benefits prior to 1952, and who had self-employment income for a taxable year which ended within or with 1952 or which began in 1952, then upon application filed by such individual after the close of such taxable year and prior to January 1961 or (if he died without filing such application and such death occurred prior to January 1961) by a person entitled to monthly benefits on the basis of such individual's wages and self-employment income, the Secretary shall recompute such individual's primary insurance amount. Such recomputation shall be made in the manner provided in the preceding subsections of this section (other than subsections (b) (4) (A)) for computation of such amount, except that (A) the self-employment income closing date shall be the day following the quarter with or within which such taxable year ended, and (B) the self-employment income for any subsequent taxable year shall not be taken into account. Such recomputation shall be effective (A) in the case of an application filed

by such individual, for and after the first month in which he became entitled to old-age insurance benefits, and (B) in the case of an application filed by any other person, for and after the month in which such person who filed such application for recomputation became entitled to such monthly benefits. No recomputation under this paragraph pursuant to an application filed after such individual's death shall affect the amount of the lump-sum death payment under subsection (i) of section 202, and no such recomputation shall render erroneous any such payment certified by the Secretary prior to the effective date of the recomputation.】

【(4) Any recomputation under this subsection shall be effective only if such recomputation results in a higher primary insurance amount.】

(4) *A recomputation shall be effective under this subsection only if it increases the primary insurance amount by at least \$1.*

(5) In the case of a man who became entitled to old-age insurance benefits and died before the month in which he attained age 65, the Secretary shall recompute his primary insurance amount as provided in subsection (a) as though he became entitled to old-age insurance benefits in the month in which he died; except that (i) his computation base years referred to in subsection (b) (2) shall include the year in which he died, and (ii) his elapsed years referred to in subsection (b) (3) shall not include the year in which he died or any year thereafter. Such recomputation of such primary insurance amount shall be effective for and after the month in which he died.

(6) Upon the death after 1967 of an individual entitled to benefits under section 202(a) or section 223, if any person is entitled to monthly benefits or a lump-sum death payment, on the wages and self-employment income of such individual, the Secretary shall recompute the decedent's primary insurance amount, but only if the decedent during his lifetime was paid compensation which was treated under section 205(o) as remuneration for employment.

(7) *This subsection as in effect in December 1978 shall continue to apply to the recomputation of a primary insurance amount computed under subsection (a) or (d) as in effect (without regard to the table in subsection (a)) in that month, and, where appropriate, under subsection (d) as in effect in December 1977. For purposes of recomputing a primary insurance amount determined under subsection (a) or (d) (as so in effect) in the case of an individual to whom those subsections apply by reason of subsection (a) (4) (B) as in effect after December 1978, no remuneration shall be taken into account for the year in which the individual initially became eligible for an old-age or disability insurance benefit or died, or for or any year thereafter.*

(8) *The Secretary shall recompute the primary insurance amounts applicable to beneficiaries whose benefits are based on a primary insurance amount which was computed under section 215(a) (3) effective prior to January 1979, or would have been so computed if the dollar amount specified therein were \$11.50. Such recomputation shall be effective January 1979, and shall include the effect of the increase in the dollar amount provided by section 215(a) (1) (C) (i) (II). Such primary insurance amount shall be deemed to be provided under such section for purposes of section 215(i).*

Cost-of-Living Increases in Benefits

(i) (1) For purposes of this subsection—

(A) the term “base quarter” means (i) the calendar quarter ending on March 31 in each year after 1974, or (ii) any other calendar quarter in which occurs the effective month of a general benefit increase under this title;

(B) the term “cost-of-living computation quarter” means a base quarter, as defined in subparagraph (A)(i), in which the Consumer Price Index prepared by the Department of Labor exceeds, by not less than 3 per centum, such Index in the later of (i) the last prior cost-of-living computation quarter which was established under this subparagraph, or (ii) the most recent calendar quarter in which occurred the effective month of a general benefit increase under this title; except that there shall be no cost-of-living computation quarter in any calendar year if in the year prior to such year a law has been enacted providing a general benefit increase under this title or if in such prior year such a general benefit increase becomes effective; and

(C) the Consumer Price Index for a base quarter, a cost-of-living computation quarter, or any other calendar quarter shall be the arithmetical mean of such index for the 3 months in such quarter.

(2) (A) (i) The Secretary shall determine each year beginning with 1975 (subject to the limitation in paragraph (1)(B) whether the base quarter (as defined in paragraph (1)(A)(i)) in such year is a cost-of-living computation quarter.

[(ii) If the Secretary determines that the base quarter in any year is a cost-of-living computation quarter, he shall, effective with the month of June of such year as provided in subparagraph (B), increase the benefit amount of each individual who for such month is entitled to benefits under section 227 and 228, and the primary insurance amount of each other individual under this title (but not including a primary insurance amount determined under subsection (a)(3) of this section), by an amount derived by multiplying each such amount (including each such individual's primary insurance amount or benefit amount under section 227 or 228 as previously increased under this subparagraph) by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which Consumer Price Index for such cost-of-living computation quarter exceeds such index for the most recent prior calendar quarter which was a base quarter under paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter under paragraph (1)(B). Any such increased amount which is not a multiple of \$0.10 shall be increased to the next higher multiple of \$0.10.]

(ii) *If the Secretary determines that the base quarter in any year is a cost-of-living computation quarter, he shall, effective with the month of June of that year as provided in subparagraph (B), increase—*

(I) the benefit amount to which individuals are entitled for that month under section 227 or 228,

(II) the primary insurance amount of each other individual on which benefit entitlement is based under this title (including a primary insurance amount determined under subsection (a) (1) (C) (i)), and

(III) the amount of total monthly benefits based on any primary insurance amount which is permitted under section 203 (and such total shall be increased, unless otherwise so increased under another provision of this title, at the same time as such primary insurance amount) or, in the case of a primary insurance amount computed under subsection (a) as in effect (without regard to the table contained therein) prior to January 1979, the amount to which the beneficiaries may be entitled under section 203 as in effect in December 1978, except as provided by section 203(a) (6) and (7) as in effect after December 1978.

The increase shall be derived by multiplying each of the amounts described in subdivisions (I), (II), and (III) (including each of those amounts as previously increased under this subparagraph) by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for that cost-of-living computation quarter exceeds such index for the most recent prior calendar quarter which was a base quarter under paragraph (1) (A) (ii) or, if later, the most recent cost-of-living computation quarter under paragraph (1) (B); and any amount so increased that is not a multiple of \$0.10 shall be increased to the next higher multiple of \$0.10. Any increase under this subsection in a primary insurance amount determined under subparagraph (C) (i) (II) of subsection (a) (1) shall be applied after the initial determination of such primary insurance amount under that subparagraph (with the amount of such increase, in the case of an individual who becomes eligible for old-age or disability insurance benefits or dies in a calendar year after 1979, being determined from the range of possible primary insurance amounts published by the Secretary under the last sentence of subparagraph (D)).

(iii) In the case of an individual who becomes eligible for an old-age or disability insurance benefit, or who dies prior to becoming so eligible, in a year in which there occurs an increase provided under clause (ii), the individual's primary insurance amount (without regard to the time of entitlement to that benefit) shall be increased (unless otherwise so increased under another provision of this title) by the amount of that increase, but only with respect to benefits payable for months after May of that year.

(B) The increase provided by subparagraph (A) with respect to a particular cost-of-living computation quarter shall apply in the case of monthly benefits under this title for months after May of the calendar year in which occurred such cost-of-living computation quarter, and in the case of lump-sum death payments with respect to deaths occurring after May of such calendar year.

(C) (i) Whenever the level of the Consumer Price Index as published for any month exceeds by 2.5 percent or more the level of such index for the most recent base quarter (as defined in paragraph (1) (A) (ii) or, if later, the most recent cost-of-living computation quarter, the Secretary shall (within 5 days after such publication) report the amount of such excess to the House Committee on Ways and Means and the Senate Committee on Finance.

(ii) Whenever the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall notify the House Committee on Ways and Means and the Senate Committee on Finance of such determination within 30 days after the close of such quarter, indicating the amount of the benefit increase to be provided, his estimate of the extent to which the cost of such increase would be met by an increase in the contribution and benefit base under section 230 and the estimated amount of the increase in such base, the actuarial estimates of the effect of such increase, and the actuarial assumptions and methodology used in preparing such estimates.

(D) If the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall publish in the Federal Register within 45 days after the close of such quarter, a determination that a benefit increase is resultantly required and the percentage thereof. [He shall also publish in the Federal Register at that time (along with the increased benefit amounts which shall be deemed to be the amounts appearing in sections 227 and 228) a revision of the table of benefits contained in subsection (a) of this section (as it may have been most recently revised by another law or pursuant to this paragraph); and such revised table shall be deemed to be the table appearing in such subsection (a). Such revision shall be determined as follows:

[(i) The headings of the table shall be the same as the headings in the table immediately prior to its revision, except that the parenthetical phrase at the beginning of column II shall reflect the year in which the primary insurance amounts set forth in column IV of the table immediately prior to its revision were effective.

[(ii) The amounts on each line of column I and column III, except as otherwise provided by clause (v) of this subparagraph, shall be the same as the amounts appearing in each such column in the table immediately prior to its revision.

[(iii) The amount on each line of column II shall be changed to the amount shown on the corresponding line of column IV of the table immediately prior to its revision.

[(iv) The amounts on each line of column IV and column V shall be increased from the amounts shown in the table immediately prior to its revision by increasing each such amount by the percentage specified in subparagraph (A) (ii) of this paragraph. The amount on each line of column V shall be increased, if necessary, so that such amount is at least equal to one and one-half times the amount shown on the corresponding line in column IV. Any such increased amount which is not a multiple of \$0.10 shall be increased to the next higher multiple of \$0.10.

[(v) If the contribution and benefit base (determined under section 230) for the calendar year in which the table of benefits is revised is lower than such base for the following calendar year, columns III, IV, and V of such table shall be extended. The amounts on each additional line of column III shall be the amounts on the preceding line increased by \$5 until in the last such line of column III the second figure is equal to [one-twelfth of the new contribution and benefit base], or exceeds by less than \$5, one-

twelfth of the new contribution and benefit base for the calendar year following the calendar year in which such table of benefits is revised. The amount on each additional line of column IV shall be the amount on the preceding line increased by \$1.00, until the amount on the last line of such column is equal to the last line of such column as determined under clause (iv) [plus 20 percent of one-twelfth of the excess of the new contribution and benefit base for the calendar year following the calendar year in which such table of benefits is revised (as determined under section 230) over such base for the calendar year in which the table of benefits is revised] plus 20 percent of the excess of the second figure in the last line of column III as extended under the preceding sentence over such second figure for the calendar year in which the table of benefits is revised. The amount in each additional line of column V shall be equal to 1.75 times the amount on the same line of column IV. Any such increased amount which is not a multiple of \$0.10 shall be increased to the next higher multiple of \$0.10.] He shall also publish in the Federal Register at that time (i) a revision of the range of the primary insurance amounts which are possible after the application of this subsection based on the dollar amount specified in subparagraph (C) (i) (II) of subsection (a) (1) (with such revised primary insurance amounts constituting the increased amounts determined for purposes of such subparagraph (C) (i) (II) under this subsection), or specified in section 215(a) (3) as in effect prior to 1979, and (ii) a revision of the range of maximum family benefits which correspond to such primary insurance amounts (with such maximum benefits being effective notwithstanding section 203 (a) except for paragraph (3) (B) thereof (or paragraph (2) thereof as in effect prior to 1979)).

(3) As used in this subsection, the term "general benefit increase under this title" means an increase (other than an increase under this subsection) in all primary insurance amounts on which monthly insurance benefits under this title are based.

(4) This subsection as in effect in December 1978 shall continue to apply to subsections (a) and (d), as then in effect, for purposes of computing the primary insurance amount of an individual to whom subsection (a), as in effect after December 1978, does not apply (including an individual to whom subsection (a) does not apply in any year by reason of paragraph (4) (B) of that subsection (but the application of this subsection in such cases shall be modified by the application of clause (I) in the last sentence of paragraph (4) of that subsection)). For purposes of computing primary insurance amounts and maximum family benefits (other than primary insurance amounts and maximum family benefits for individuals to whom such paragraph (4) (B) applies), the Secretary shall publish in the Federal Register revisions of the table of benefits contained in subsection (a), as in effect in December 1978, as required by paragraph (2) (D) of this subsection as then in effect.

OTHER DEFINITIONS

SEC. 216. For the purposes of this title—

Spouse; Surviving Spouse

(a) (1) The term "spouse" means a wife as defined in subsection (b) or a husband as defined in subsection (f).

(2) The term "surviving spouse" means a widow as defined in subsection (c) or a widower as defined in subsection (g).

* * * * *

[Divorced Wives; Divorce] *Divorced Spouses; Divorce*

(d) (1) The term "divorced wife" means a woman divorced from an individual, but only if she had been married to such individual for a period of **[20]** 5 years immediately before the date the divorce became effective.

(2) The term "surviving divorced wife" means a woman divorced from an individual who has died, but only if she had been married to the individual for a period of **[20]** 5 years immediately before the date the divorce became effective.

(3) The term "surviving divorced mother" means a woman divorced from an individual who has died, but only if (A) she is the mother of his son or daughter, (B) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of 18, (C) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of 18, or (D) she was married to him at the time both of them legally adopted a child under the age of 18.

(4) The term "divorced husband" means a man divorced from an individual, but only if he has been married to such individual for a period of 5 years immediately before the date the divorce became effective.

(5) The term "surviving divorced husband" means a man divorced from an individual who has died, but only if he has been married to the individual for a period of 5 years immediately before the divorce became effective.

(6) The term "surviving divorced father" means a man divorced from an individual who has died, but only if (A) he is the father of her son or daughter, (B) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of 18, (C) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of 18, or (D) he was married to her at the time both of them legally adopted a child under the age of 18.

(7) The term "surviving divorced parent" means a surviving divorced mother as defined in paragraph (3) of this subsection or a surviving divorced father as defined in paragraph (6).

[4]. (8) The terms "divorce" and "divorced" refer to a divorce a vinculo matrimonii.

* * * * *

Husband

(f) The term "husband" means the husband of an individual, but only if (1) he is the father of her son or daughter, (2) he was married to her for a period of not less than one year immediately preceding the day on which his application is filed, or (3) in the month prior to the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (c), (f), or (h) of section 202, (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 202(s)), or (C) he was entitled to, or upon application therefor and attainment of the required age (if any) he would have been entitled to, a widower's, child's (after attainment of age 18), or parents' insurance annuity under section 2 of the Railroad Retirement Act of 1974, as amended.

Widower

(g) The term "widower" (except when used in section 202(i)) means the surviving husband of an individual, but only if (1) he is the father of her son or daughter, (2) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of eighteen, (3) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of eighteen, (4) he was married to her at the time both of them legally adopted a child under the age of eighteen, (5) he was married to her for a period of not less than nine months immediately prior to the day on which she died, or (6) in the month before the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (c), (f), or (h) of section 202, (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 202(s)), or (C) he was entitled to, or on application therefor and attainment of the required age (if any) he would have been entitled to a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 2 of the Railroad Retirement Act of 1974, as amended.

Determination of Family Status

(h) (1) (A) An applicant is the wife, husband, widow, or widower of a fully or currently insured individual for purposes of this title if the courts of the State in which such insured individual is domiciled at the time such applicant files an application, or, if such insured individual is dead, the courts of the State in which he was domiciled at the time of death, or, if such insured individual is or was not so domiciled in any State, the courts of the District of Columbia, would find that such applicant and such insured individual were validly married at the time such applicant files such application or, if such insured indi-

vidual is dead, at the time he died. If such courts would not find that such applicant and such insured individual were validly married at such time, such applicant shall, nevertheless be deemed to be the wife, husband, widow, or widower, as the case may be, of such insured individual if such applicant would, under the laws applied by such courts in determining the devolution of interstate personal property, have the same status with respect to the taking of such property as a wife, husband, widow, or widower of such insured individual.

(B) In any case where under subparagraph (A) an applicant is not (and is not deemed to be) the wife, widow, husband, or widower of a fully or currently insured individual, or where under subsection (b), (c), (f), or (g) such applicant is not the wife, widow, husband, or widower of such individual, but it is established to the satisfaction of the Secretary that such applicant in good faith went through a marriage ceremony with such individual resulting in a purported marriage between them which, but for a legal impediment not known to the applicant at the time of such ceremony, would have been a valid marriage, and such applicant and the insured individual were living in the same household at the time of the death of such insured individual or (if such insured individual is living) at the time such applicant files the application, then, for purposes of subparagraph (A) and subsections (b), (c), (f), and (g) such purported marriage shall be deemed to be a valid marriage. The provisions of the preceding sentence shall not apply (i) if another person is or has been entitled to a benefit under subsection (b), (c), (e), (f), or (g) of section 202 on the basis of the wages and self-employment income of such insured individual and such other person is (or is deemed to be) a wife, widow, husband, or widower of such insured individual under subparagraph (A) at the time such applicant files the application, or (ii) if the Secretary determines, on the basis of information brought to his attention, that such applicant entered into such purported marriage with such insured individual with knowledge that it would not be a valid marriage. The entitlement to a monthly benefit under subsection (b), (c), (e), (f), or (g) of section 202, based on the wages and self-employment income of such insured individual, of a person who would not be deemed to be a wife, widow, husband, or widower of such insured individual but for this subparagraph, shall end with the month before the month (i) in which the Secretary certifies, pursuant to section 205(i), that another person is entitled to a benefit under subsection (b), (c), (e), (f), or (g) of section 202 on the basis of the wages and self-employment income of such insured individual, if such other person is (or is deemed to be) the wife, widow, husband, or widower of such insured individual under subparagraph (A), or (ii) if the applicant is entitled to a monthly benefit under subsection (b) or (c) of section 202, in which such applicant entered into a marriage, valid without regard to this subparagraph, with a person other than such insured individual. For purposes of this subparagraph, a legal impediment to the validity of a purported marriage includes only an impediment (i) resulting from the lack of dissolution of a previous marriage or otherwise arising out of such previous marriage or its dissolution, or (ii) resulting from a defect in the procedure followed in connection with such purported marriage.

(2) (A) In determining whether an applicant is the child or parent of a fully or currently insured individual for purposes of this title, the Secretary shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such insured individual is domiciled at the time such applicant files application, or, if such insured individual is dead, by the courts of the State in which he was domiciled at the time of his death, or, if such insured individual is or was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking intestate personal property as a child or parent shall be deemed such.

(B) If an applicant is a son or daughter of a fully or currently insured individual but is not (and is not deemed to be) the child of such insured individual under subparagraph (A), such applicant shall nevertheless be deemed to be the child of such insured individual if such insured individual and the mother or father, as the case may be, of such applicant went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of paragraph (1) (B), would have been a valid marriage.

(3) An applicant who is the son or daughter of a fully or currently insured individual, but who is not (and is not deemed to be) the child of such insured individual under paragraph (2), shall nevertheless be deemed to be the child of such insured individual if:

(A) in the case of an insured individual entitled to old-age insurance benefits (who was not, in the month preceding such entitlement, entitled to disability insurance benefits)—

(i) such insured individual—

(I) has acknowledged in writing that the applicant is his son or daughter,

(II) has been decreed by a court to be the *mother or father* of the applicant, or

(III) has been ordered by a court to contribute to the support of the applicant because the applicant is his son or [daughter,

and such acknowledgement, court decree, or court order was made not less than one year before such insured individual became entitled to old-age insurance benefits or attained age 65, whichever is earlier; or] *daughter; or*

(ii) such insured individual is shown by evidence satisfactory to the Secretary to be the *mother or father* of the applicant and was living with or contributing to the support of the applicant at the time [such insured individual became entitled to benefits or attained age 65, whichever first occurred:] *such applicant's application for benefits was filed;*

(B) in the case of an insured individual entitled to disability insurance benefits, or who was entitled to such benefits in the month preceding the first month for which he was entitled to old-age insurance benefits—

(i) such insured individual—

(I) has acknowledged in writing that the applicant is his son or daughter,

(II) has been decreed by a court to be the *mother or father* of the applicant, or

(III) has been ordered by a court to contribute to the support of the applicant because the applicant is his son or daughter,

and such acknowledgement, court decree, or court order was made before such insured individual's most recent period of disability began; or daughter; or

(ii) such insured individual is shown by evidence satisfactory to the Secretary to be the *mother or father* of the applicant and was living with or contributing to the support of that applicant at the time such period of disability began applicant's application for benefits was filed;

(C) in the case of a deceased individual—

(i) such insured individual—

(I) had acknowledged in writing that the applicant is his son or daughter,

(II) had been decreed by a court to be the *mother or father* of the applicant, or

(III) had been ordered by a court to contribute to the support of the applicant because the applicant was his son or daughter,

and such acknowledgement, court decree, or court order was made before the death of such insured individual, or

(ii) such insured individual is shown by evidence satisfactory to the Secretary to have been the *mother or father* of the applicant, and such insured individual was living with or contributing to the support of the applicant at the time such insured individual died.

* * * * *

BENEFITS IN CASE OF VETERANS

SEC. 217. (a) * * *

* * * * *

(b) (1) Any World War II veteran who died during the period of three years immediately following his separation from the active military or naval service of the United States shall be deemed to have died a fully insured individual whose primary insurance amount is the amount determined under section 215(c) *as in effect in December 1978*. Notwithstanding section 215(d) *as in effect in December 1978*, the primary insurance benefit (for purposes of section 215(c) *as in effect in December 1978*) of such veteran shall be determined as provided in this title as in effect prior to the enactment of this section, except that the 1 per centum addition provided for in section 209(e) (2) of this Act as in effect prior to the enactment of this section shall be applicable only with respect to calendar years prior to 1951. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application:

(B) any pension or compensation is determined by the Veteran's Administration to be payable by it on the basis of the death of such veteran;

(C) the death of the veteran occurred while he was in the active military or naval service of the United States; or

(D) such veteran has been discharged or released from the active military or naval service of the United States subsequent to July 26, 1951.

* * * * *

(f) (1) In any case where a World War II veteran (as defined in subsection (d) (2)) or a veteran (as defined in subsection (e) (4)) has died or shall hereafter die, and his **[widow]** *surviving spouse* or child is entitled under subchapter III of chapter 83 of title 5, United States Code, to an annuity in the computation of which his active military or naval service was included, clause (B) of subsection (a) (1) or clause (B) of subsection (e) (1) shall not operate (solely by reason of such annuity) to make such subsection inapplicable in the case of any monthly benefit under section 202 which is based on his wages and self-employment income; except that no such **[widow]** *surviving spouse* or child shall be entitled under section 202 to any monthly benefit in the computation of which such service is included by reason of this subsection (A) unless such **[widow]** *surviving spouse* or child after December 1956 waives his or her right to receive such annuity, or (B) for any month prior to the first month with respect to which the Civil Service Commission certifies to the Secretary of Health, Education, and Welfare that (by reason of such waiver) no further annuity will be paid to such **[widow]** *surviving spouse* or child under such subchapter III on the basis of such veteran's military or civilian service. Any such waiver shall be irrevocable.

(2) Whenever a **[widow]** *surviving spouse* waives **[her]** *his* right to receive such annuity such waiver shall constitute a waiver on **[her]** *his* own behalf; a waiver by a legal guardian or guardians, or, in the absence of a legal guardian, the person (or persons) who has the child in his care, of the child's right to receive such annuity shall constitute a waiver on behalf of such child. Such a waiver with respect to an annuity based on a veteran's service shall be valid only if the **[widow]** *surviving spouse* and all children, or, if there is no **[widow]** *surviving spouse*, all the children, waive their rights to receive annuities under subchapter III of chapter 83 of title 5, United States Code, based on such veteran's military or civilian service.

* * * * *

[VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

[Purpose of Agreement

[SEC. 218. (a) (1) The Secretary of Health, Education, and Welfare shall, at the request of any State, enter into an agreement with such State for the purpose of extending the insurance system established by this title to services performed by individuals as employees of such State or any political subdivision thereof. Each such agreement shall

contain such provisions, not inconsistent with the provisions of this section, as the State may request.

[(2) Notwithstanding section 210(a), for the purposes of this title the term "employment" includes any service included under an agreement entered into under this section.

[Definitions

[(b) for the purposes of this section—

[(1) The term "State" does not include the District of Columbia, Guam or American Samoa.

[(2) The term "political subdivision" includes an instrumentality of (A) a State, (B) one or more political subdivisions of a State, or (C) a State and one or more of its political subdivisions.

[(3) The term "employee" includes an officer of a State or political subdivision.

[(4) The term "retirement system" means a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof.

[(5) The term "coverage group" means (A) employees of the State other than those engaged in performing service in connection with a proprietary function; (B) employees of a political subdivision of a State other than those engaged in performing service in connection with a proprietary function; (C) employees of a State engaged in performing service in connection with a single proprietary function; or (D) employees of a political subdivision of a State engaged in performing service in connection with a single proprietary function. If under the preceding sentence an employee would be included in more than one coverage group by reason of the fact that he performs service in connection with two or more proprietary functions or in connection with both a proprietary function and a nonproprietary function, he shall be included in only one such coverage group. The determination of the coverage group in which such employee shall be included shall be made in such manner as may be specified in the agreement. Persons employed under section 709 of title 32, United States Code, who elected under section 6 of the National Guard Technicians Act of 1968 to remain covered by an employee retirement system of, or plan sponsored by, a State or the Commonwealth of Puerto Rico, shall, for the purposes of this Act, be employees of the State or the Commonwealth of Puerto Rico and (notwithstanding the preceding provisions of this paragraph), shall be deemed to be a separate coverage group. For purposes of this section, individuals employed pursuant to an agreement, entered into pursuant to section 205 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1624) or section 14 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499n), between a State and the United States Department of Agriculture to perform services as inspectors of agricultural products may be deemed, at the option of the State, to be employees of the State and (notwithstanding the preceding provisions of this paragraph) shall be deemed to be a separate coverage group.

Services Covered

[(c) (1) An agreement under this section shall be applicable to any one or more coverage groups designated by the State.

[(2) In the case of each coverage group to which the agreement applies, the agreement must include all services (other than services excluded by or pursuant to subsection (d) or paragraph (3), (5), or (6) of this subsection) performed by individuals as members of such group.

[(3) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any one or more of the following:

[(A) All services in any class or classes of (i) elective positions, (ii) part-time positions, or (iii) positions the compensation for which is on a fee basis;

[(B) All services performed by individuals as members of a coverage group in positions covered by a retirement system on the date such agreement is made applicable to such coverage group, but only in the case of individuals who, on such date (or, if later, the date on which they first occupy such positions), are not eligible to become members of such system and whose services in such positions have not already been included under such agreement pursuant to subsection (d) (3).

[(4) The Secretary of Health, Education, and Welfare shall, at the request of any State, modify the agreement with such State so as to (A) include any coverage group to which the agreement did not previously apply, or (B) include, in the case of any coverage group to which the agreement applies, services previously excluded from the agreement; but the agreement as so modified may not be inconsistent with the provisions of this section applicable in the case of an original agreement with a State. A modification of an agreement pursuant to clause (B) of the preceding sentence may apply to individuals to whom paragraph (3) (B) is applicable (whether or not the previous exclusion of the service of such individuals was pursuant to such paragraph), but only if such individuals are, on the effective date specified in such modification, ineligible to be members of any retirement system or if the modification with respect to such individuals is pursuant to subsection (d) (3).

[(5) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any agricultural labor, or service performed by a student, designated by the State. This paragraph shall apply only with respect to service which is excluded from employment by any provision of section 210(a) other than paragraph (7) of such section and service the remuneration for which is excluded from wages by paragraph (2) of section 209(h).

[(6) Such agreement shall exclude—

[(A) service performed by an individual who is employed to relieve him from unemployment.

[(B) service performed in a hospital, home, or other institution by a patient or inmate thereof,

[(C) covered transportation service (as determined under section 210(k)), and

[(D) service (other than agricultural labor or service performed by a student) which is excluded from employment by any

provision of section 210(a) other than paragraph (7) of such section, and

[(E) service performed by an individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency.

[(7) No agreement may be made applicable (either in the original agreement or by any modification thereof) to service performed by any individual to whom paragraph (3) (B) is applicable unless such agreement provides (in the case of each coverage group involved) either that the service of any individual to whom such paragraph is applicable and who is a member of such coverage group shall continue to be covered by such agreement in case he thereafter becomes eligible to be a member of a retirement system, or that such service shall cease to be so covered when he becomes eligible to be a member of such a system (but only if the agreement is not already applicable to such system pursuant to subsection (d) (3)), whichever may be desired by the State.

[(8) Notwithstanding any other provision of this section, the agreement with any State entered into under this section may at the option of the State be modified on or after January 1, 1968, to exclude service performed by election officials or election workers if the remuneration paid in a calendar [quarter] year for such service is less than [\$50.] \$100. Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed after an effective date, specified in such modification, which shall not be earlier than the last day of the calendar quarter in which the modification is mailed or delivered by other means to the Secretary.

[(Positions Covered by Retirement Systems

[(d) (1) No agreement with any State may be made applicable (either in the original agreement or by any modification thereof) to any service performed by employees as members of any coverage group in positions covered by a retirement system either (A) on the date such agreement is made applicable to such coverage group, or (B) on the date of enactment of the succeeding paragraph of this subsection (except in the case of positions which are, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to the date of enactment of such succeeding paragraph, no longer covered by a retirement system on the date referred to in clause (A), and except in the case of positions excluded by paragraph (5) (A). The preceding sentence shall not be applicable to any service performed by an employee as a member of any coverage group in a position (other than a position excluded by paragraph (5) (A)) covered by a retirement system on the date an agreement is made applicable to such coverage group, if on such date (or, if later, the date on which such individual first occupies such position), such individual is ineligible to be a member of such system.

[(2) It is hereby declared to be the policy of the Congress in enacting the succeeding paragraphs of this subsection that the protection afforded employees in positions covered by a retirement system on the date an agreement under this section is made applicable to serv-

ice performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof.

[(3) Notwithstanding paragraph (1), an agreement with a State may be made applicable (either in the original agreement or by any modification thereof) to service performed by employees in positions covered by a retirement system (including positions specified in paragraph (4) but not including positions excluded by or pursuant to paragraph (5)), if the governor of the State, or an official of the State designated by him for the purpose, certifies to the Secretary of Health, Education, and Welfare that the following conditions have been met:

[(A) A referendum by secret written ballot was held on the question of whether service in positions covered by such retirement system should be excluded from or included under an agreement under this section;

[(B) An opportunity to vote in such referendum was given (and was limited) to eligible employees;

[(C) Not less than ninety days' notice of such referendum was given to all such employees;

[(D) Such referendum was conducted under the supervision of the governor or an agency or individual designated by him; and

[(E) A majority of the eligible employees voted in favor of including service in such positions under an agreement under this section.

[An employee shall be deemed an "eligible employee" for purposes of any referendum with respect to any retirement system if, at the time such referendum was held, he was in a position covered by such retirement system and was a member of such system, and if he was in such a position at the time notice of such referendum was given as required by clause (C) of the preceding sentence; except that he shall not be deemed an "eligible employee" if, at the time the referendum was held, he was in a position to which the State agreement already applied, or if he was in a position excluded by or pursuant to paragraph (5). No referendum with respect to a retirement system shall be valid for purposes of this paragraph unless held within the two-year period which ends on the date of execution of the agreement or modification which extends the insurance system established by this title to such retirement system, nor shall any referendum with respect to a retirement system be valid for purposes of this paragraph if held less than one year after the last previous referendum held with respect to such retirement system.

[(4) For the purposes of subsection (c) of this section, the following employees shall be deemed to be a separate coverage group—

[(A) all employees in positions which were covered by the same retirement system on the date the agreement was made applicable to such system (other than employees to whose services the agreement already applied on such date);

[(B) all employees in positions which became covered by such system at any time after such date; and

[(C) all employees in positions which were covered by such system at any time before such date and to whose services the

insurance system established by this title has not been extended before such date because the positions were covered by such retirement system (including employees to whose services the agreement was not applicable on such date because such services were excluded pursuant to subsection (c) (3) (B)).

[(5) Nothing in paragraph (3) of this subsection shall authorize the extension of the insurance system established by this title to service in any policeman's or fireman's position.¹

[(B) At the request of the State, any class or classes of positions covered by a retirement system which may be excluded from the agreement pursuant to paragraph (3) or (5) of subsection (3), and to which the agreement does not already apply, may be excluded from the agreement at the time it is made applicable to such retirement system; except that, notwithstanding the provisions of paragraph (3) (B) of such subsection, such exclusion may not include any services to which such paragraph (3) (B) is applicable. In the case of any such exclusion, each such class so excluded shall, for purposes of this subsection, constitute a separate retirement system in case of any modification of the agreement thereafter agreed to.

[(6) (A) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned. Where a retirement system covering positions of employees of a State and positions of employees of one or more political subdivisions of a State, or covering positions of employees of two or more political subdivisions of the State, is not divided into separate retirement systems pursuant to the preceding sentence or pursuant to subparagraph (C), then the State may, for purposes of subsection (f) only, deem the system to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned.

[(B) If a retirement system covers positions of employees of one or more institutions of higher learning, then, for purposes of such preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of each such institution of higher learning. For the purposes of this subparagraph, the term "institutions of higher learning" includes junior colleges and teachers colleges. If a retirement system covers positions of employees of a hospital which is an integral part of a political subdivision, then, for purposes of the preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of such hospital.

[(C) For the purposes of this subsection, any retirement system established by the State of Alaska, California, Connecticut, Florida, Georgia, Illinois, Massachusetts, Minnesota, Nevada, *New Jersey*, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, Wisconsin, or Hawaii, or any political subdivision of any such State, which, on, before, or after the date of enactment of this subparagraph, is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such systems who do not desire such coverage, shall, if the State so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. If, in the case of a separate retirement system which is deemed to exist by reason of subparagraph (A) and which has been divided into two divisions or parts pursuant to the first sentence of this subparagraph, individuals become members of such system by reason of action taken by a political subdivision after coverage under an agreement under this section has been extended to the division or part thereof composed of positions of individuals who desire such coverage, the positions of such individuals who become members of such retirement system by reason of the action so taken shall be included in the division or part of such system composed of positions of members who do not desire such coverage if (i) such individuals, on the day before becoming such members, were in the division or part of another separate retirement system (deemed to exist by reason of subparagraph (A)) composed of positions of members of such system who do not desire coverage under an agreement under this section, and (ii) all of the position in the separate retirement system of which such individuals so become members and all of the positions in the separate retirement system referred to in clause (i) would have been covered by a single retirement system if the State had not taken action to provide for separate retirement systems under his paragraph.

[(D) (i) the position of any individual which is covered by any retirement system to which subparagraph (C) is applicable shall, if such individual is ineligible to become a member of such system on August 1, 1956, or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title.

[(ii) Notwithstanding clause (i), the State may, pursuant to subsection (c) (4) (B) and subject to the conditions of continuation or termination of coverage provided for in subsection (c) (7), modify its agreement under this section to include services performed by all individuals described in clause (i) other than those individuals to whose services the agreement already applies. Such individuals shall be deemed (on and after the effective date of the modification) to be in positions covered by the separate retirement system consisting of the positions of members of the division or part who desire coverage under the insurance system established under this title.

[(E) An individual who is in a position covered by a retirement system to which subparagraph (C) is applicable and who is not a member of such system but is eligible to become a member thereof shall, for purposes of this subsection (other than paragraph (8)), be regarded as a member of such system; except that, in the case of any retirement system a division or part of which is covered under the agreement (either in the original agreement or by a modification thereof), which coverage is agreed to prior to 1960, the preceding provisions of this subparagraph shall apply only if the State so requests and any such individual referred to in such preceding provisions shall, if the State so requests, be treated, after division of the retirement system pursuant to such subparagraph (C), the same as individuals in positions referred to in subparagraph (F).

[(F) In the case of any retirement system divided pursuant to subparagraph (C), the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of positions of members who desire such coverage if it is so provided in a modification of such agreement which is mailed, or delivered by other means, to the Secretary prior to 1970, or, if later, the expiration of two years after the date on which such agreement, or the modification thereof making the agreement applicable to such separate retirement system, as the case may be, is agreed to, but only if, prior to such modification or such later modification, as the case may be, the individual occupying such position files with the State a written request for such transfer. Notwithstanding subsection (f) (1), any such modification or later modification, providing for the transfer of additional positions within a retirement system previously divided pursuant to subparagraph (C) to the separate retirement system composed of positions of members who desire coverage, shall be effective with respect to services performed after the same effective date as that which was specified in the case of such previous division.

[(G) For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or Hawaii which covers positions of employees of such State who are compensated in whole or in part from grants made to such State under title III, there shall be deemed to be, if such State so desires, a separate retirement system with respect to any of the following:

- [(i) the positions of such employees;
- [(ii) the positions of all employees of such State covered by such retirement system who are employed in the department of such State in which the employees referred to in clause (i) are employed; or
- [(iii) employees of such State covered by such retirement system who are employed in such department of such State in positions other than those referred to in clause (i).

[(7) The certification by the governor (or an official of the State designated by him for the purpose) required under paragraph (3) shall be deemed to have been made, in the case of a division or part (created under subparagraph (C) of paragraph (6) or the corre-

sponding provision of prior law) consisting of the positions of members of a retirement system who desire coverage under the agreement under this section, if the governor (or the official so designated) certifies to the Secretary of Health, Education, and Welfare that—

[(A) an opportunity to vote by written ballot on the question of whether they wish to be covered under an agreement under this section was given to all individuals who were members of such system at the time the vote was held;

[(B) not less than ninety days' notice of such vote was given to all individuals who were members of such system on the date the notice was issued;

[(C) the vote was conducted under the supervision of the governor or an agency or individual designated by him; and

[(D) such system was divided into two parts or divisions in accordance with the provisions of subparagraphs (C) and (D) of paragraph (6) or the corresponding provision of prior law.

For purposes of this paragraph, an individual in a position to which the State agreement already applied or in a position excluded by or pursuant to paragraph (5) shall not be considered a member of the retirement system.

[(8) (A) Notwithstanding paragraph (1), if under the provisions of this subsection an agreement is, after December 31, 1958, made applicable to service performed in positions covered by a retirement system, service performed by an individual in a position covered by such a system may not be excluded from the agreement because such position is also covered under another retirement system.

[(B) Subparagraph (A) shall not apply to service performed by an individual in a position covered under a retirement system if such individual, on the day the agreement is made applicable to service performed in positions covered by such retirement system, is not a member of such system and is a member of another system.

[(C) If an agreement is made applicable, prior to 1959, to service in positions covered by any retirement system, the preceding provisions of this paragraph shall be applicable in the case of such system if the agreement is modified to so provide.

[(D) Except in the case of agreements with the States named in subsection (p) and agreements with interstate instrumentalities, nothing in this paragraph shall authorize the application of an agreement to service in any policeman's or fireman's position.

[Payments and Reports by States

[(e) (1) Each agreement under this section shall provide—

[(A) that the State will pay to the Secretary of the Treasury, at such time or times as the Secretary of Health, Education, and Welfare may by regulations prescribe, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services of employees covered by the agreement constituted employment as defined in section 3121 of such code; and

[(B) that the State will comply with such regulations relating to payments and reports as the Secretary of Health, Education,

and Welfare may prescribe to carry out the purposes of this section.

[(2) Where—

[(A) an individual in any calendar year performs services to which an agreement under this section is applicable (i) as the employee of two or more political subdivisions of a State or (ii) as the employee of a State and one or more political subdivisions of such State; and

[(B) such State provides all of the funds for the payment of those amounts referred to in paragraph (1) (A) which are equivalent to the taxes imposed by section 3111 of the Internal Revenue Code of 1954 with respect to wages paid to such individual for such services; and

[(C) the political subdivision or subdivisions involved do not reimburse such State for the payment of such amounts or, in the case of services described in subparagraph (A) (ii), for the payment of so much of such amounts as is attributable to employment by such subdivision or subdivisions;

then, notwithstanding paragraph (1), the agreement under this section with such State may provide (either in the original agreement or by a modification thereof) that the amounts referred to in paragraph (1) (A) may be computed as though the wages paid to such individual for the services referred to in clause (A) of this paragraph were paid by one political subdivision for services performed in its employ; but the provisions of this paragraph shall be applicable only where such State complies with such regulations as the Secretary may prescribe to carry out the purposes of this paragraph. The preceding sentence shall be applicable with respect to wages paid after an effective date specified in such agreement or modification, but in no event with respect to wages paid before (i) January 1, 1957, in the case of an agreement or modification which is mailed or delivered by other means to the Secretary before January 1, 1962, or (ii) the first day of the year in which the agreement or modification is mailed or delivered by other means to the Secretary, in the case of an agreement or modification which is so mailed or delivered on or after January 1, 1962.

[(EFFECTIVE DATE OF AGREEMENT

[(f) (1) Except as provided in subsection (e) (2), any agreement or modification of an agreement under this section shall be effective with respect to services performed after an effective date specified in such agreement or modification; except that such date may not be earlier than the last day of the sixth calendar year preceding the year in which such agreement or modification, as the case may be, is agreed to by the Secretary and the State.

[(2) In the case of service performed by members of any coverage group—

[(A) to which an agreement under this section is made applicable, and

[(B) with respect to which the agreement, or modification thereof making the agreement so applicable, specifies an effective date earlier than the date of execution of such agreement and such modification, respectively,

the agreement shall, if so requested by the State, be applicable to such services (to the extent the agreement was not already applicable) performed before such date of execution and after such effective date by any individual as a member of such coverage group if he is such a member on a date, specified by the State, which is earlier than such date of execution, except that in no case may the date so specified be earlier than the date such agreement or such modification, as the case may be, is mailed, or delivered by other means, to the Secretary.

[(3) Notwithstanding the provisions of paragraph (2) of this subsection, in the case of services performed by individuals as members of any coverage group to which an agreement under this section is made applicable, and with respect to which there were timely paid in good faith to the Secretary of the Treasury amounts equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 had such services constituted employment for purposes of chapter 21 of such Code at the time they were performed, and with respect to which refunds were not obtained, such individuals may, if so requested by the State, be deemed to be members of such coverage group on the date designated pursuant to paragraph (2).

Termination of Agreement

[(g) (1) *Upon* Subject to paragraph (4), upon giving at least two years' advance notice in writing to the Secretary of Health, Education, and Welfare, a State may terminate, effective at the end of a calendar quarter specified in the notice, its agreement with the Secretary either—

[(A) in its entirety but only if the agreement has been in effect from its effective date for not less than five years prior to the receipt of such notice; or

[(B) with respect to any coverage group designated by the State, but only if the agreement has been in effect with respect to such coverage group for not less than five years prior to the receipt of such notice.

[(2) *If* Subject to paragraph (4), if the Secretary, after reasonable notice and opportunity for hearing to a State with whom he has entered into an agreement pursuant to this section, finds that the State has failed or is no longer legally able to comply substantially with any provision of such agreement or of this section, he shall notify such State that the agreement will be terminated in its entirety, or with respect to any one or more coverage groups designated by him, at such time, not later than two years from the date of such notice, as he deems appropriate, unless prior to such time he finds that there no longer is any such failure or that the cause for such legal inability has been removed.

[(3) If any agreement entered into under this section is terminated in its entirety, the Secretary and the State may not again enter into an agreement pursuant to this section. If any such agreement is terminated with respect to any coverage group, the Secretary and the State may not thereafter modify such agreement so as to again make the agreement applicable with respect to such coverage group.

[(4) No agreement under this section may be terminated under paragraph (1) or paragraph (2) (either in its entirety or with respect to any coverage group) unless the applicable notice referred to in such paragraph is given on or before September 13, 1977.]

[Deposits in Trust Funds; Adjustments]

[(h) (1) All amounts received by the Secretary of the Treasury under an agreement made pursuant to this section shall be deposited in the Trust Funds and the Federal Hospital Insurance Trust Fund in the ratio in which amounts are appropriated to such Funds pursuant to subsection (a) (3) of section 201, subsection (b) (1) of such section, and subsection (a) (1) of section 1817, respectively.

[(2) If more or less than the correct amount due under an agreement made pursuant to this section is paid with respect to any payment of remuneration, proper adjustments with respect to the amounts due under such agreement shall be made, without interest, in such manner and at such times as may be prescribed by regulations of the Secretary of Health, Education, and Welfare.

[(3) If an overpayment cannot be adjusted under paragraph (2), the amount thereof and the time or times it is to be paid shall be certified by the Secretary of Health, Education, and Welfare to the Managing Trustee, and the Managing Trustee, through the Fiscal Service of the Treasury Department and prior to any action thereon by the General Accounting Office, shall make payment in accordance with such certification. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Secretary of Health, Education, and Welfare.

[Regulations]

(i) Regulations of the Secretary of Health, Education, and Welfare to carry out the purposes of this section shall be designed to make the requirements imposed on States pursuant to this section the same, so far as practicable, as those imposed on employers pursuant to this title and chapter 21 and subtitle F of the Internal Revenue Code of 1954.¹

[Failure to Make Payments]

[(j) In case any State does not make, at the time or times due, the payments provided for under an agreement pursuant to this section there shall be added, as part of the amounts due, interest at the rate of 6 per centum per annum from the date due until paid, and the Secretary of Health, Education, and Welfare may, in his discretion, deduct such amounts plus interest from any amounts certified by him to the Secretary of the Treasury for payment to such State under any other provision of this Act. Amounts so deducted shall be deemed to have been paid to the State under such other provision of this Act. Amounts equal to the amounts deducted under this subsection are hereby appropriated to the Trust Funds in the ratio in which amounts are deposited in such Funds pursuant to subsection (h) (1).

[Instrumentalities of Two or More States

[(k) (1) The Secretary of Health, Education, and Welfare may, at the request of any instrumentality of two or more States, enter into an agreement with such instrumentality for the purpose of extending the insurance system established by this title to services performed by individuals as employees of such instrumentality. Such agreement, to the extent practicable, shall be governed by the provisions of this section applicable in the case of an agreement with a State.

[(2) In the case of any instrumentality of two or more States, if—

[(A) employees of such instrumentality are in positions covered by a retirement system of such instrumentality or of any of such States or any of the political subdivisions thereof, and

[(B) such retirement system is (on, before, or after the date of enactment of this paragraph) divided into two divisions or parts, one of which is composed of positions of members of such system who are employees of such instrumentality and who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who are employees of such instrumentality and who do not desire such coverage, and

[(C) it is provided that there shall be included in such division or part composed of the positions of members desiring such coverage the positions of employees of such instrumentality who become members of such system after such coverage is extended, then such retirement system shall, if such instrumentality so desires, be deemed to be a separate retirement system with respect to each such division or part. An individual who is in a position covered by a retirement system divided pursuant to the preceding sentence and who is not a member of such system but is eligible to become a member thereof shall, for purposes of this subsection, be regarded as a member of such system. Coverage under the agreement of any such individual shall be provided under the same conditions, to the extent practicable, as are applicable in the case of the States to which the provisions of subsection (d) (6) (C) apply. The position of any employee system to which the first sentence of this paragraph is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of this paragraph or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title. Services in positions covered by a separate retirement system created pursuant to this subsection (and consisting of the positions of members who desire coverage under an agreement under this section) shall be covered under such agreement or compliance, to the extent practicable, with the same conditions as are applicable to coverage under an agreement under this section of services in positions covered by a separate retirement system created pursuant to subparagraph (C) of subsection (d) (6) or the corresponding provision of prior law (and consisting of the positions of members who desire coverage under such agreement).

[(3) Any agreement with any instrumentality of two or more States entered into pursuant to this Act may, notwithstanding the provisions

of subsection (d)(5)(A) and the references thereto in subsections (d)(1) and (d)(3), apply to service performed by employees of such instrumentality in any policeman's or fireman's position covered by a retirement system, but only upon compliance, to the extent practicable, with the requirements of subsection (d)(3). For the purpose of the preceding sentence, a retirement system which covers positions of policemen or firemen or both, and other positions shall, if the instrumentality concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

【Delegation of Functions

【(1) The Secretary of Health, Education, and Welfare is authorized pursuant to agreement with the head of any Federal agency, to delegate any of his functions under this section to any officer or employee of such agency and otherwise to utilize the services and facilities of such agency in carrying out such functions, and payment therefor shall be in advance or by way of reimbursement, as may be provided in such agreement.

【Wisconsin Retirement Fund

【(m)(1) Notwithstanding paragraph (1) of subsection (d), the agreement with the State of Wisconsin may, subject to the provisions of this subsection, be modified so as to apply to service performed by employees in positions covered by the Wisconsin retirement fund *or any successor system*.

【(2) All employees in positions covered by the Wisconsin retirement fund at any time on or after January 1, 1951, shall, for the purposes of subsection (c) only, be deemed to be a separate coverage group; except that there shall be excluded from such separate coverage group all employees in positions to which the agreement applies without regard to this subsection.

【(3) The modification pursuant to this subsection shall exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) service performed by any individual during any period before he is included under the Wisconsin retirement fund.

【(4) The modification pursuant to this subsection shall, if the State of Wisconsin requests it, exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) all service performed in policemen's positions, all service performed in firemen's positions, or both.

【Certain Positions No Longer Covered by Retirement Systems

【(n) Notwithstanding subsection (d), an agreement with any State entered into under this section prior to the date of the enactment of this subsection may, prior to January 1, 1958, be modified pursuant to subsection (c)(4) so as to apply to services performed by employees, as members of any coverage group to which such agreement already applies (and to which such agreement applied on such date of enact-

ment), in positions (1) to which such agreement does not already apply, (2) which were covered by a retirement system on the date such agreement was made applicable to such coverage group, and (3) which, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to the date of the enactment of this subsection, are no longer covered by a retirement system on the date such agreement is made applicable to such services.

【Certain Employees of the State of Utah

【(o) Notwithstanding the provisions of subsection (d), the agreement with the State of Utah entered into pursuant to this section may be modified pursuant to subsection (c) (4) so as to apply to services performed for any of the following, the employees performing services for each of which shall constitute a separate coverage group: Weber Junior College, Carbon Junior College, Dixie Junior College, Central Utah Vocational School, Salt Lake Area Vocational School, Center for the Adult Blind, Union High School (Roosevelt, Utah), Utah High School Activities Association, State Industrial School, State Training School, State Board of Education, and Utah School Employees Retirement Board. Any modification agreed to prior to January 1, 1955, may be made effective with respect to services performed by employees as members of any of such coverage groups after an effective date specified therein, except that in no case may any such date be earlier than December 31, 1950.

【Policemen and Firemen in Certain States

【(p) (1) Any agreement with the State of Alabama, California, Florida, Georgia, Hawaii, Idaho, Kansas, Maine, Maryland, *Mississippi*, Montana, New York, North Carolina, North Dakota, Oregon, Puerto Rico, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, or Washington entered into pursuant to this section prior to the date of enactment of this subsection may, notwithstanding the provisions of subsection (d) (5) (A) and the references thereto in subsections (d) (1) and (d) (3), be modified pursuant to subsection (c) (4) to apply to service performed by employees of such State or any political subdivision thereof in any policeman's or firemen's position covered by a retirement system in effect on or after the date of the enactment of this subsection, but only upon compliance with the requirements of subsection (d) (3). For the purposes of the preceding sentence, a retirement system which covers positions of policemen or firemen, or both, and other positions shall, if the State concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

【(2) A State, not otherwise listed by name in paragraph (1), shall be deemed to be a State listed in such paragraph for the purpose of extending coverage under this title to service in firemen's positions covered by a retirement system, if the Governor of the State, or an official of the State designated by him for the purpose, certifies to the Secretary of Health, Education, and Welfare that the overall bene-

fit protection of the employees in such positions would be improved by reason of the extension of such coverage to such employees. Notwithstanding the provisions of the second sentence of such paragraph (1), such firemen's positions shall be deemed a separate retirement system and no other positions shall be included in such system.

Time Limitation on Assessments

[(q)(1) Where a State is liable for an amount due under an agreement pursuant to this section, such State shall remain so liable until the Secretary is satisfied that the amount due has been paid to the Secretary of the Treasury.

[(2) Notwithstanding paragraph (1), a State shall not be liable for an amount due under an agreement pursuant to this section, with respect to the wages paid to individuals, after the expiration of the latest of the following periods—

[(A) three years, three months, and fifteen days after the year in which such wages were paid, or

[(B) three years after the date on which such amount become due, or

[(C) three years, three months, and fifteen days after the year following the year in which this subsection is enacted, unless prior to the expiration of such period the Secretary makes an assessment of the amount due.

[(3) For purposes of this subsection and section 205(c), an assessment of an amount due is made when the Secretary mails or otherwise delivers to the State a notice stating the amount he has determined to be due under an agreement pursuant to this section and the basis for such determination.

[(4) An assessment of an amount due made by the Secretary after the expiration of the period specified in paragraph (2) shall nevertheless be deemed to have been made within such period if—

[(A) before the expiration of such period (or, if it has previously been extended under this paragraph, of such period as so extended), the State and the Secretary agree in writing to an extension of such period (or extended period) and, subject to such conditions as may be agreed upon, the Secretary makes the assessment prior to the expiration of such extension; or

[(B) within the 365 days immediately preceding the expiration of such period (or extended period) the State pays to the Secretary of the Treasury less than the correct amount due under an agreement pursuant to this section with respect to wages paid to individuals in [any calendar quarters] *a calendar year* as members of a coverage group, and the Secretary of Health, Education, and Welfare makes the assessment, adjusted to take into account the amount paid by the State, no later than the 365th day after the day the State made payment to the Secretary of the Treasury; but the Secretary of Health, Education, and Welfare, shall make such assessment only with respect to the wages paid to such individuals in [such calendar quarters] *such calendar year* as members of such coverage group; or

[(C) pursuant to subparagraph (A) or (B) of section 205(c) (5) he includes in his records an entry with respect to wages for an individual, but only if such assessment is limited to the amount due with respect to such wages and is made within the period such entry could be made in such records under such subparagraph.

[(5) If the Secretary allows a claim for a credit or refund of an overpayment by a State under an agreement pursuant to this section, with respect to wages paid or alleged to have been paid to an individual in a calendar year for services as a member of a coverage group, and if as a result of the facts on which such allowance is based there is an amount due from the State, with respect to wages paid to such individual in such calendar year for services performed as a member of a coverage group, for which amount the State is not liable by reason of paragraph (2) then notwithstanding paragraph (2) the State shall be liable for such amount due if the Secretary makes an assessment of such amount due at the time of or prior to notification to the State of the allowance of such claim. For purposes of this paragraph and paragraph (6), interest as provided for in subsection (j) shall not be included in determining the amount due.

[(6) The Secretary shall accept wage reports filed by a State under an agreement pursuant to this section or regulations of the Secretary thereunder, after the expiration of the period specified in paragraph (2) or such period as extended pursuant to paragraph (4), with respect to wages which are paid to individuals performing services as employees in a coverage group included in the agreement and for payment in connection with which the State is not liable by reasons of paragraph (2), only if the State—

[(A) pays to the Secretary of the Treasury the amount due under such agreement with respect to such wages, and

[(B) agrees in writing with the Secretary of Health, Education, and Welfare to an extension of the period specified in paragraph (2) with respect to wages paid to all individuals performing services as employees in such coverage group in the [calendar quarters designated by the State in such wage reports as the] *period or periods designated by the State in such wage reports as the period or periods in which such wages were paid.* If the State so agrees, the period specified in paragraph (2), or such period as extended pursuant to paragraph (4), shall be extended until such time as the Secretary notifies the State that such wage reports have been accepted.

[(7) Notwithstanding the preceding provisions of this subsection, where there is an amount due by a State under an agreement pursuant to this section and there has been a fraudulent attempt on the part of an officer or employee of the State or any political subdivision thereof to defeat or evade payment of such amount due, the State shall be liable for such amount due without regard to the provisions of paragraph (2), and the Secretary may make an assessment of such amount due at any time.

[Time Limitations on Credits and Refunds

[(r) (1) No credit or refund of an overpayment by a State under an agreement pursuant to this section with respect to wages paid or alleged to have been paid to an individual as a member of a coverage

group in a calendar **[quarter]** *year* shall be allowed after the expiration of the latest of the following periods—

[(A)] three years, three months, and fifteen days after the year **[in which occurred the calendar quarter]** in which such wages were paid or alleged to have been paid, or

[(B)] three years after the date the payment which included such overpayment became due under such agreement with respect to the wages paid or alleged to have been paid to such individual as a member of such coverage group in such calendar **[quarter]** *year*, or

[(C)] two years after such overpayment was made to the Secretary of the Treasury, or

[(D)] three years, three months, and fifteen days after the year following the year in which this subsection is enacted, unless prior to the expiration of such period a claim for such credit or refund is filed with the Secretary of Health, Education, and Welfare by the State.

[(2)] A claim for a credit or refund filed by a State after the expiration of the period specified by paragraph (1) shall nevertheless be deemed to have been filed within such period if—

[(A)] before the expiration of such period (or, if it has previously been extended under this subparagraph, of such period as so extended) the State and the Secretary agreed in writing to an extension of such period (or extended period) and the claim is filed with the Secretary by the State prior to the expiration of such extension; but any claim for a credit or refund valid because of this subparagraph shall be allowed only to the extent authorized by the conditions provided for in the agreement for such extension, or

[(B)] the Secretary deletes from his records an entry with respect to wages of an individual pursuant to the provisions of subparagraph (A), (B), or (E) of section 205(c) (5), but only with respect to the entry so deleted.

[Review by Secretary]

[(s)] Where the Secretary has made an assessment of an amount due by a State under an agreement pursuant to this section, disallowed a State's claim for a credit or refund of an overpayment under such agreement, or allowed a State a credit or refund of an overpayment under such agreement, he shall review such assessment, disallowance, or allowance if a written request for such review is filed with him by the State within 90 days (or within such further time as he may allow) after notification to the State of such assessment, disallowance, or allowance. On the basis of the evidence obtained by or submitted to the Secretary, he shall render a decision affirming, modifying, or reversing such assessment, disallowance, or allowance. In notifying the State of his decision, the Secretary shall state the basis therefor.

[Review By Court]

[(t) (1)] Notwithstanding any other provision of this title any State, irrespective of the amount in controversy, may file, within two years

after the mailing to such State of the notice of any decision by the Secretary pursuant to subsection (s) affecting such State, or within such further time as the Secretary may allow, a civil action for a redetermination of the correctness of the assessment of the amount due, the disallowance of the claim for a refund or credit, or the allowance of the refund or credit, as the case may be, with respect to which the Secretary has rendered such decision. Such action shall be brought in the district court of the United States for the judicial district in which is located the capital of such State, or, if such action is brought by an instrumentality of two or more States, the principal office of such instrumentality. The judgment of the court shall be final, except that it shall be subject to review in the same manner as judgments of such court in other civil actions. Any action filed under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

[(2) Notwithstanding the provisions of section 2411 of title 28, United States Code, no interest shall accrue to a State after final judgment with respect to a credit or refund of an overpayment made under an agreement pursuant to this section.

[(3) the first sentence of section 2414 of title 28, United States Code, shall not apply to final judgments rendered by district courts of the United States in civil actions filed under this subsection. In such cases, the payment of amounts due to States pursuant to such final judgments shall be adjusted in accordance with the provisions of this section and with regulations promulgated by the Secretary.

[Positions Compensated Solely on a Fee Basis

[(u) (1) Notwithstanding any other provision in this section, an agreement entered into under this section may be made applicable to service performed after 1967 in any class or classes of positions compensated solely on a fee basis to which such agreement did not apply prior to 1968 only if the State specifically requests that its agreement be made applicable to such service in such class or classes of positions.

[(2) Notwithstanding any other provision in this section, an agreement entered into under this section may be modified, at the option of the State, at any time after 1967, so as to exclude services performed in any class or classes of positions compensation for which is solely on a fee basis.

[(3) Any modification made under this subsection shall be effective with respect to services performed after the last day of the calendar year in which the modification is agreed to by the Secretary and the State.

[(4) If any class or classes of positions have been excluded from coverage under the State agreement by a modification agreed to under this subsection, the Secretary and the State may not thereafter modify such agreement so as to again make the agreement applicable with respect to such class or classes of positions.]

* * * * *

REHABILITATION SERVICES

Referral for Rehabilitation Services

SEC. 222. (a) It is hereby declared to be the policy of the Congress that disabled individuals applying for a determination of disability, and disabled individuals who are entitled to child's insurance benefits, widow's insurance benefits, or widower's insurance benefits, shall be promptly referred to the State agency or agencies administering or supervising the administration of the State plan approved under the Vocational Rehabilitation Act for necessary vocational rehabilitation services, to the end that the maximum number of such individuals may be rehabilitated into productive activity.

Deductions on Account of Refusal To Accept Rehabilitation Services

(b) (1) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under sections 202 and 223 for any month in which such individual, if a child who has attained the age of eighteen and is entitled to child's insurance benefits, a widow, widower [or surviving divorced wife], *surviving divorced wife, or surviving divorced husband* who has not attained age 60, or an individual entitled to disability insurance benefits, refuses without good cause to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act. Any individual who is a member or adherent of any recognized church or religious sect which teaches its members or adherents to rely solely, in the treatment and cure of any physical or mental impairment, upon prayer or spiritual means through the application and use of the tenets or teachings of such church or sect, and who, solely because of his adherence to the teachings or tenets of such church, or sect, refuses to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act, shall, for the purposes of the first sentence of this subsection, be deemed to have done so with good cause.

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled or from any mother's *or father's* insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or such mother's *or father's* insurance benefit or benefits under section 202 for any month in which such child or person entitled to mother's *or father's* insurance benefits is married to an individual who is entitled to disability insurance benefits and in which such individual refuses to accept rehabilitation services and a deduction, on account of such refusal, is imposed under paragraph (1). If both this paragraph and paragraph (3) are applicable to a child's insurance benefit for any month, only an amount equal to such benefit shall be deducted.

(3) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to disability insurance benefits, to which a wife,

divorced wife, husband, *divorced husband*, or child is entitled, until the total of such deductions equal such wife's, husband's, or child's insurance benefit or benefits under section 202 for any month in which the individual, on the basis of whose wages and self-employment income such benefit was payable, refuses to accept rehabilitation services and deductions, on account of such refusal, are imposed under paragraph (1).

(4) The provisions of paragraph (1) shall not apply to any child entitled to benefits under section 202(d), if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 202(d)).

* * * * *

Costs of Rehabilitation Services From Trust Funds

(d) (1) For the purpose of making vocational rehabilitation services more readily available to disabled individuals who are—

(A) entitled to disability insurance benefits under section 223, or

(B) entitled to child's insurance benefits under section 202(d) after having attained age 18 (and are under a disability), or

(C) entitled to widow's insurance benefits under section 202(e) prior to attaining age 60, or

(D) entitled to widower's insurance benefits under section 202(f) prior to attaining age 60,

to the end that savings will result to the Trust Fund as a result of rehabilitating the maximum number of such individuals into productive activity, there are authorized to be transferred from the Trust Funds such sums as may be necessary to enable the Secretary to pay the costs of vocational rehabilitation services for such individuals (including (i) services during their waiting periods, and (ii) so much of the expenditures for the administration of any State plan as is attributable to carrying out this subsection); except that the total amount so made available pursuant to this subsection may not exceed—

(i) 1 percent in the fiscal year ending June 30, 1972,

(ii) 1.25 percent in the fiscal year ending June 30, 1973,

(iii) 1.5 percent in the fiscal year ending June 30, 1974, and

thereafter,

of the total of the benefits under section 202(d) for children who have attained age 18 and are under a disability, the benefits under section 202(e) for widows and surviving divorced wives who have not attained age 60 and are under a disability, the benefits under section 202(f) for widowers and surviving divorced husbands who have not attained age 60, and the benefits under section 223, which were certified for payment in the preceding year. The selection of individuals (including the order in which they shall be selected) to receive such services shall be made in accordance with criteria formulated by the Secretary which are based upon the effect the provision of such services would have upon the Trust Funds.

(2) In the case of each State which is willing to do so, such vocational rehabilitation services shall be furnished under a State plan for vocational rehabilitation services which—

(A) has been approved under section 5 of the Vocational Rehabilitation Act,

(B) provides that, to the extent funds provided under this subsection are adequate for the purpose, such services will be furnished, to any individual in the State who meets the criteria prescribed by the Secretary pursuant to paragraph (1), with reasonable promptness and in accordance with the order of selection determined under such criteria, and

(C) provides that such services will be furnished to any individual without regard to (i) his citizenship or place of residence, (ii) his need for financial assistance except as provided in regulations of the Secretary in the case of maintenance during rehabilitation, or (iii) any order of selection which would otherwise be followed under the State plan pursuant to section 5(a)(4) of the Vocational Rehabilitation Act.

(3) In the case of any State which does not have a plan which meets the requirements of paragraph (2), the Secretary may provide such services by agreement or contract with other public or private agencies, organizations, institutions, or individuals.

(4) Payments under this subsection may be made in installments, in advance or by way of reimbursement, with necessary adjustments and on account of overpayments or underpayments.

(5) Money paid from the Trust Funds under this subsection to pay the costs of providing services to individuals who are entitled to benefits under section 223 (including services during their waiting periods), or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such individuals shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid out from the Trust Funds under this subsection shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Secretary shall determine according to such methods and procedures as he may deem appropriate—

(A) the total cost of the services provided under this subsection, and

(B) subject to the provisions of the preceding sentence, the amount of such cost which should be charged to each of such Trust Funds.

(6) For the purposes of this subsection the term "vocational rehabilitation services" shall have the meaning assigned to it in the Vocational Rehabilitation Act, except that such services may be limited in type, scope, or amount in accordance with regulations of the Secretary designed to achieve the purposes of this subsection.

DISABILITY INSURANCE BENEFIT PAYMENTS

Disability Insurance Benefits

SEC. 223. (a) * * *

* * * * *

Definition of Disability

(d) (1) The term "disability" means—

(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

(B) in the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 216(i)(1)), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

(2) For purposes of paragraph (1) (A)—

(A) an individual (except a widow, surviving divorced wife, **[or widower]** *widower, or surviving divorced husband* for purposes of section 202 (e) or (f) shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(B) A widow, surviving divorced wife, **[or widower]** *widower, or surviving divorced husband* shall not be determined to be under a disability (for purposes of section 202 (e) or (f)) unless his or her physical or mental impairment or impairments are of a level of severity which under regulations prescribed by the Secretary is deemed to be sufficient to preclude an individual from engaging in any gainful activity.

* * * * *

REDUCTION OF BENEFITS BASED ON DISABILITY ON ACCOUNT OF RECEIPT OF WORKMEN'S COMPENSATION

SEC. 224. (a) If any month prior to the month in which an individual attains the age of 62—

(1) such individual is entitled to benefits under section 223, and

(2) such individual is entitled for such month, under a workmen's compensation law or plan of the United States or a State to periodic benefits for a total or partial disability (whether or not permanent), and the Secretary has, in a prior month, received notice of such entitlement for such month,

the total of his benefits under section 223 for such month and of any benefits under section 202 for such month based on his wages and self-employment income shall be reduced (but not below zero) by the amount by which the sum of—

(3) such total of benefits under section 223 and 202 for such month, and

(4) such periodic benefits payable (and actually paid) for such month to such individual under the workmen's compensation law or plan,

exceeds the higher of—

(5) 80 per centum of his "average current earnings", or

(6) the total of such individual's disability insurance benefits under section 223 for such month and of any monthly insurance benefits under section 202 for such month based on his wages and self-employment income, prior to reduction under this section.

In no case shall the reduction in the total of such benefits under sections 223 and 202 for a month (in a continuous period of months) reduce such total below the sum of—

(7) the total of the benefits under sections 223 and 202, after reduction under this section, with respect to all persons entitled to benefits on the basis of such individual's wages and self-employment income for such month which were determined for such individual and such persons for the first month for which reduction under this section was made (or which would have been so determined if all of them had been so entitled in such first month), and

(8) any increase in such benefits with respect to such individual and such persons, before reduction under this section, which is made effective for months after the first month for which reduction under this section is made.

For purposes of clause (5), an individual's average current earnings means the largest of (A) the average monthly wage (*determined under section 215(b) as in effect prior to January 1979*) used for purposes of computing his benefits under section 223, (B) one-sixtieth of the total of his wages and self-employment income (computed without regard to the limitations specified in sections 209(a) and 211(b)(1)) for the five consecutive calendar years after 1950 for which such wages and self-employment income were highest, or (C) one-twelfth of the total of his wages and self-employment income (computed without regard to the limitations specified in sections 209(a) and 211(b)(1)) for the calendar year in which he had the highest such wages and income during the period consisting of the calendar year in which he became disabled (as defined in section 223(d)) and the five years preceding that year. In any case where an individual's wages and self-employment income reported to the Secretary for a calendar year reach the limitations specified in sections 209(a) and 211(b)(1), the Secretary under regulations shall estimate the total of such wages and self-employment income for purposes of clauses (B) and (C) of the preceding sentence on the basis of such information as may be available to him indicating the extent (if any) by which such wages and self-employment income exceed such limitations.

* * * * *

(f)(1) In the second calendar year after the year in which reduction under this section in the total of an individual's benefits under section 223 and any benefits under section 202 based on his wages and self-employment income was first required (in a continuous period of months), and in each third year thereafter, the Secretary shall redetermine the amount of such benefits which are still subject to reduction under this section; but such redetermination shall not result in any decrease in the total amount of benefits payable under this title on the basis of such individual's wages and self-employment income. Such redetermined benefit shall be determined as of, and shall become effective with, the January following the year in which such redetermination was made.

[(2) in making the redetermination required by paragraph (1), the individual's average current earnings (as defined in subsection (a)) shall be deemed to be the product of his average current earnings as initially determined under subsection (a) and the ratio of (i) the average of the taxable wages of all persons for whom taxable wages were reported to the Secretary for the first calendar quarter of the calendar year before the calendar year in which such redetermination is made, to (ii) the average of the taxable wages of such persons reported to the Secretary for the first calendar quarter of the taxable year before the calendar year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability). Any amount determined under the preceding sentence which is not a multiple of \$1 shall be reduced to the next lower multiple of \$1.)]

(2) *In making the redetermination required by paragraph (1), the individual's average current earnings (as defined in subsection (a)) shall be deemed to be the product of—*

(A) his average current earnings as initially determined under subsection (a);

(B) the ratio of (i) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the year in which such redetermination is made to (ii) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for calendar year 1977 or, if later, the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability); and

(C) in any case in which the reduction was first computed before 1978, the ratio of (i) the average of the taxable wages reported to the Secretary for the first calendar quarter of 1977 to (ii) the average of the taxable wages reported to the Secretary for the first calendar quarter of the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability).

Any amount determined under this paragraph which is not a multiple of \$1 shall be reduced to the next lower multiple of \$1.

* * * * *

SUSPENSION OF BENEFITS BASED ON DISABILITY

SEC. 225. If the Secretary, on the basis of information obtained by or submitted to him, believes that an individual entitled to benefits under section 223, or that a child who has attained the age of eighteen and is entitled to benefits under section 202(d), or that a widow or surviving divorced wife who has not attained age 60 and is entitled to benefits under section 202(e), or that a widower or *surviving divorced husband* who has not attained age 60 and is entitled to benefits under section 202(f), may have ceased to be under a disability, the Secretary may suspend the payment of benefits under such section 202(d), 202(e), 202(f), or 223, until it is determined (as provided in section 221) whether or not such individual's disability has ceased or until the Secretary believes that such disability has not ceased. In the case of any individual whose disability is subject to determination under an agreement with a State under section 221(b), the Secretary shall promptly notify the appropriate State of his action under this section and shall request a prompt determination of whether such individual's disability has ceased. For purposes of this section, the term "disability" has the meaning assigned to such term in section 223(d). Whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the benefits of any individual entitled thereto under subsection (b), (c), or (d) of section 202, on the basis of the wages and self-employment income of such individual, shall be suspended for such month. The first sentence of this section shall not apply to any child entitled to benefits under section 202(d), if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a fulltime student (as defined and determined under section 202(d)).

ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS

SEC. 226.

(a) * * *

* * * * *

(h) (1) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of widows and widowers described in paragraph (2) (A) (iii) thereof—

(A) the term "age 60" in sections 202(e) (1) (B) (ii), 202(e) (5), 202(f) (1) (B) (ii), and 202(f) (6) shall be deemed to read "age 65"; and

(B) the phrase "before she attained age 60" in the matter following subparagraph (F) of section 202(e) (1) and the phrase "before he attained age 60" in the matter following subparagraph (G) of section 202(f) (1) shall each be deemed to read "based on a disability".

(2) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of an individual under age 65 who is entitled to benefits under section 202, and who was entitled to widow's insurance benefits or widower's insurance benefits based on disability for the month before the first month in which such individual was so entitled to old-age insurance benefits (but ceased to be entitled to such widow's or widower's insurance benefits upon becoming entitled to such old-age insurance benefits), such individual shall be

deemed to have continued to be entitled to such widow's insurance benefits or widower's insurance benefits for and after such first month.

[(3) For purposes of determining entitlement to hospital insurance benefits under subsection (b) any disabled widow age 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits) shall, upon application, for such hospital insurance benefits be deemed to have filed for such widow's benefits and shall, upon furnishing proof of such disability prior to July 1, 1974, under such procedures as the Secretary may prescribe, be deemed to have been entitled to such widow's benefits as of the time she would have been entitled to such widow's benefits if she had filed a timely application therefor.]

(3) *For purposes of determining entitlement to hospital insurance benefits under subsection (b), any disabled widow age 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits), and any disabled widower who is entitled to father's insurance benefits (and who would have been entitled to widower's insurance benefits by reason of disability if he had filed for such widower's benefits), shall, upon application for such hospital insurance benefits be deemed to have filed for such widow's or widower's benefits.*

(4) *For the purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of an individual described in clause (iii) of subsection (b)(2)(A), the entitlement of such individual to widow's or widower's insurance benefits under section 202(e) or (f) by reason of a disability shall be deemed to be the entitlement to such benefits that would result if such entitlement were determined without regard to the provisions of section 202(j)(4).*

* * * * *

TRANSITIONAL INSURED STATUS

SEC. 227. (a) In the case of any individual who attains the age of 72 before 1969 but who does not meet the requirements of section 214(a), the 6 quarters of coverage referred to in paragraph (1) of section 214(a) shall, instead, be 3 quarters of coverage for purposes of determining entitlement of such individual to benefits under section 202(a), and of [his wife] *his or her spouse* to benefits under section 202(b) *or section 202(c)*, but, in the case of such [wife,] *spouse*, only if [she] *he or she* attains the age of 72 before 1969 and only with respect to [wife's] *spouse's* insurance benefits under section 202(b) *or section 202(c)* for and after the month in which [she] *he or she* attains such age. For each month before the month in which way any such individual meets the requirements of section 214(a), the amount of his *or her* old-age insurance benefit shall, notwithstanding the provisions of section 202(a), be the larger of \$64.40 or the amount most recently established in lieu thereof under section 215(i) and the amount of the [wife's] *spouse's* insurance benefit of his *or her* [wife] *spouse* shall, notwithstanding the provisions of section 202(b) *or section 202(c)*, be the larger of \$32.20 or the amount most recently established in lieu thereof under section 215(i).

(b) In the case of any individual who has died, who does not meet the requirements of section 214(a), and whose [widow] *surviving spouse* attains age 72 before 1969, the 6 quarters of coverage referred to in paragraph (3) of section 214(a) and in paragraph (1) thereof shall, for purposes of determining [her] the entitlement to [widow's] *surviving spouse's* insurance benefits under section 202(e) or section 202(f), instead be—

(1) 3 quarters of coverage if such [widow] *surviving spouse* attains the age of 72 in or before 1966,

(2) 4 quarters of coverage if such [widow] *surviving spouse* attains the age of 72 in 1967, or

(3) 5 quarters of coverage if such [widow] *surviving spouse* attains the age of 72 in 1968.

The amount of [her widow's] *the surviving spouse's* insurance benefit for each month shall, notwithstanding the provisions of section 202(e) or section 202(f) (and section 202 (m)), be the larger of \$64.40 or the amount most recently established in lieu thereof under section 215(i).

(c) In the case of any individual who becomes, or upon filing application therefor would become, entitled to benefits under section 202(a) by reason of the application of subsection (a) of this section, who dies, and whose [widow] *surviving spouse* attains the age of 72 before 1969, such deceased individual shall be deemed to meet the requirements of subsection (b) of this section for purposes of determining entitlement of such [widow] *surviving spouse* to [widow's] *surviving spouse's* insurance benefits under section 202(e) or section 202(f).

BENEFITS AT AGE 72 FOR CERTAIN UNINSURED INDIVIDUALS

Eligibility

SEC. 228. (a) * * *

* * * * *

Benefit Amount

(b) (1) Except as provided in paragraph (2), the benefit amount to which an individual is entitled under this section for any month shall be the larger of \$64.40 or the amount most recently established in lieu thereof under section 215(i).

(2) If both husband and wife are entitled (or upon application would be entitled) to benefits under this section for any month, the amount of [the husband's benefit] *each of their benefits* for such month shall be the larger of [\$64.40] \$48.30 or the amount most recently established in lieu thereof under section 215(i) [and the amount of the wife's benefit for such month shall be the larger of \$32.20 or the amount most recently established in lieu thereof under section 215(i)].

Reduction for Governmental Pension System Benefits

(c) (1) The benefit amount of any individual under this section for any month shall be reduced (but not below zero) by the amount

of any periodic benefit under a governmental pension system for which he is eligible for such month.

(2) In the case of a husband and wife only one of whom is entitled to benefits under this section for any month, the benefit amount, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the spouse who is not entitled to benefits under this section is eligible for such month, over (B) the larger of \$32.20 or the amount most recently established in lieu thereof under section 215(i).¹

[(3) In the case of a husband and wife both of whom are entitled to benefits under this section for any month—

[(A) the benefit amount of the wife, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the husband is eligible for such month, over (ii) the larger of \$64.40 or the amount most recently established in lieu thereof under section 215(i); and

[(B) the benefit amount of the husband, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the wife is eligible for such month, over (ii) the larger of \$32.20 or the amount most recently established in lieu thereof under section 215(i).]

(3) *In the case of a husband or wife, both of whom are entitled to benefits under this section for any month, the benefit amount of each, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the other is eligible for such month, over (B) the larger of \$48.30 or the amount most recently established in lieu thereof under section 215(i).*

* * * * *

BENEFITS IN CASE OF MEMBERS OF THE UNIFORMED SERVICES

SEC. 229. (a) For purposes of determining entitlement to and the amount of any monthly benefit for any month after December 1972, or entitlement to and the amount of any lump-sum death payment in case of a death after such month, payable under this title on the basis of the wages and self-employment income of any individual, and for purposes of section 216(i)(3), such individual [shall be deemed to have been paid, in each calendar quarter occurring after 1956 in which he], *if he was paid wages for [service as a member of a uniformed service (as defined in section 210(m)) which was included in the term "employment" as defined in section 210(a) as a result of the provisions of section 210(l)] service, as a member of a uniformed service, to which the provisions of section 210(l)(1) are applicable, [wages (in addition to the wages actually paid to him for such service) of \$300.] shall be deemed to have been paid—*

(1) *in each calendar quarter occurring after 1956 and before 1978 in which he was paid such wages, additional wages of \$300, and*

(2) *in each calendar year occurring after 1977 in which he was paid such wages, additional wages of \$100 for each \$300 of such wages, up to a maximum of \$1,200 of additional wages for any calendar year.*

* * * * * *

ADJUSTMENT OF THE CONTRIBUTION AND BENEFIT BASE

SEC. 230. (a) Whenever the Secretary pursuant to section 215(i) increases benefits effective with the June following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs the contribution and benefit base determined under subsection (b) *or* (c) which shall be effective with respect to remuneration paid after the calendar year in which such quarter occurs and taxable years beginning after such year.

(b) The amount of such contribution and benefit base shall (*subject to subsection (c)*) be the amount of the contribution and benefit base in effect in the year in which the determination is made or, if larger, the product of—

[(1) the contribution and benefit base which was in effect with respect to remuneration paid in (and taxable years beginning in) the calendar year in which the determination under subsection (a) with respect to such particular calendar year was made, and

[(2) the ratio of (A) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year in which the determination under subsection (a) with respect to such particular calendar year was made to (B) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973 or, if later, the calendar year preceding the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a).]

(1) *the contribution and benefit base which is in effect with respect to remuneration paid in (and taxable years beginning in) the calendar year in which the determination under subsection (a) is made, and*

(2) *the ratio of (A) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the calendar year in which the determination under subsection (a) is made to (B) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year before the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a),*

with such product, if not a multiple of \$300, being rounder to the next higher multiple of \$300 where such product is a multiple of \$150 but not of \$300 and to the nearest multiple of \$300 in any other case. [For purposes of this subsection, the average of the wages for the calendar year 1978 (or any prior calendar year) shall, in the case of determinations made under subsection (a) prior to December 31, 1979, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.]

(c) For purposes of this section, and for purposes of determining wages and self-employment income under sections 209, 211, 213, and 215 of this Act and sections 1402, 3121, 3122, [3125,] 3126, 3127, 6413, and 6654 of the Internal Revenue Code of 1954, (1) the "contribution and benefit base" with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1973 and prior to the calendar year with the June of which the first increase in benefits pursuant to section 215(i) of this Act becomes effective shall be \$13,200 or (if applicable) such other amount as may be specified in a law enacted subsequent to the law which added this [section.] section, and (2) the "contribution and benefit base" with respect to remuneration paid (and taxable years beginning)—

- (A) in 1978 shall be \$19,900,
- (B) in 1979 shall be \$22,900,
- (C) in 1980 shall be \$25,900, and
- (D) in 1981 shall be \$27,900.

For purposes of determining under subsection (b) the "contribution and benefit base" with respect to remuneration paid (and taxable years beginning) in 1982 and subsequent years, the dollar amounts specified in clause (2) of the preceding sentence shall be considered to have resulted from the application of such subsection (b) and to be the amount determined (with respect to the years involved) under that subsection. For purposes of determining employer tax liability under section 3221(a) of the Internal Revenue Code of 1954 and for purposes of computing average monthly compensation under section 3(j) of the Railroad Retirement Act of 1974, except with respect to annuity amounts determined under section 3(a) or 3(f) (3) of such Act, clause (2) and the preceding sentence of this subsection shall be disregarded.

(d) *Notwithstanding any other provision of law, the contribution and benefit base determined under this section for any calendar year after 1976 for purposes of section 4022(b)(3)(B) of Public Law 93-406, with respect to any plan, shall be the contribution and benefit base that would have been determined for such year if this section as in effect immediately prior to the enactment of the Social Security Financing Amendments of 1977 had remained in effect without change.*

* * * * *

INTERNATIONAL AGREEMENTS

Purpose of Agreement

SEC. 233. (a) The President is authorized to enter into agreements establishing totalization arrangements between the social security sys-

tem established by this title and the social security system of any foreign country, for the purposes of establishing entitlement to and the amount of old-age, survivors, disability, or derivative benefits based on a combination of an individual's periods of coverage under the social security system established by this title and the social security system of each foreign country.

Definitions

(b) For the purposes of this section—

(1) the term "social security system" means, with respect to a foreign country, a social insurance or pension system which is of general application in the country and under which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, death, or disability; and

(2) the term "period of coverage" means a period of payment of contributions or a period of earnings based on wages for employment or on self-employment income, or any similar period recognized as equivalent thereto under this title or under the social security system of a country which is a party to an agreement entered into under this section.

Crediting Periods of Coverage; Conditions of Payment of Benefits

(c) (1) Any agreement establishing a totalization arrangement pursuant to this section shall provide—

(A) that in the case of an individual who has at least 6 quarters of coverage as defined in section 213 of this Act and periods of coverage under the social security system of a foreign country which is a party to such agreement, periods of coverage of such individual under such social security system of such foreign country may be combined with periods of coverage under this title and otherwise considered for the purposes of establishing entitlement to and the amount of old-age, survivors, and disability insurance benefits under this title;

(B) (i) that employment or self-employment, or any service which is recognized as equivalent to employment or self-employment under this title or the social security system of a foreign country which is a party to such agreement, shall, or on after the effective date of such agreement, result in a period of coverage under the system established under this title or under the system established under the laws of such foreign country, but not under both, and (ii) the methods and conditions for determining under which system employment, self-employment, or other service shall result in a period of coverage; and

(C) that where an individual's periods of coverage are combined, the benefit amount payable under this title shall be based on the proportion of such individual's periods of coverage which was completed under this title.

(2) Any such agreement may provide that—

(A) an individual who is entitled to cash benefits under this title shall, notwithstanding the provisions of section 202(t), receive such benefits while he resides in a foreign country which is a party to such agreement; and

(B) the benefit paid by the United States to an individual who legally resides in the United States shall be increased to an amount which, when added to the benefit paid by such foreign country, will be equal to the benefit amount which would be payable to an entitled individual based on the first figure in (or deemed to be in) column IV of the table in section 215(a) in the case of an individual becoming eligible for such benefit before January 1, 1979, or based on a primary insurance amount determined under section 215(a)(1)(C)(i)(I) in the case of an individual becoming eligible for such benefit on or after that date.

(3) Section 226 shall not apply in the case of any individual to whom it would not be applicable but for this section or any agreement or regulation under this section.

(4) Any such agreement may contain such other provisions, not inconsistent with this section, as the President deems appropriate.

Regulations

(d) The Secretary of Health, Education, and Welfare shall make rules and regulations and establish procedures which are reasonable and necessary to implement and administer any agreement which has been entered into in accordance with this section.

Reports to Congress; Effective Date of Agreements

(e)(1) Any agreement to establish a totalization arrangement entered into pursuant to this section shall be transmitted by the President to the Congress.

(2) Such an agreement shall become effective on any date, provided in the agreement, which occurs after the expiration of 90 days on each of which at least one House of Congress is in session following the date on which the agreement is transmitted in accordance with paragraph (1).

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TITLE VII—ADMINISTRATION

* * * * *

TIME FOR DELIVERY OF BENEFITS CHECKS WHEN REGULAR DELIVERY DAY FALLS ON A SATURDAY, SUNDAY, OR LEGAL HOLIDAY

SEC. 708. (a) If the day regularly designated for the delivery of benefit checks under title II or title XVI falls on a Saturday, Sunday, or legal public holiday (as defined in section 6103 of title 5, United States Code) in any month, the benefit checks which would otherwise be delivered on such day shall be mailed in time for delivery, and delivered, on the first day preceding such day which is not a Saturday, Sunday, or legal public holiday (as so defined), without regard to whether the delivery of such checks would as a result have to be made before the end of the month for which such checks are issued.

(b) If more than the correct amount of payment under title II or XVI is made to any individual as a result of the receipt of a benefit

check pursuant to subsection (a) before the end of the month for which such check is issued, no action shall be taken (under section 204 or 1631(b) or otherwise) to recover such payment or the incorrect portion thereof.

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TITLE XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

* * * * *

PART B—SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE AGED AND DISABLED

* * * * *

AMOUNTS OF PREMIUMS

SEC. 1839. (a) * * *

* * * * *

(c) (1) The Secretary shall, during December of 1972 and of each year thereafter, determine the monthly actuarial rate for enrollees age 65 and over which shall be applicable for the 12-month period commencing July 1 in the succeeding year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such 12-month period with respect to those enrollees age 65 and over will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such 12-month period. In calculating the monthly actuarial rate, the Secretary shall include an appropriate amount for a contingency margin.

(2) The monthly premium of each individual enrolled under this part for each month after June 1973 shall, except as provided in subsection (d), be the amount determined under paragraph (3).

(3) The Secretary shall, during December of 1972 and of each year thereafter, determine and promulgate the monthly premium applicable for the individuals enrolled under this part for the 12-month period commencing July 1 in the succeeding year. The monthly premium shall be equal to the smaller of—

(A) the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, for that 12-month period, or

(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph or, in the case of the determination made in December 1971, such rate promulgated under subsection (b) (2) multiplied by the ratio of (i) the amount in column IV of the table which, by reason of the law in effect at the time the promulgation is made, will be in effect as of May 1 next following such determination appears (or is deemed to appear) in section 215(a) on the line which includes the figure “750” in column III of such table to (ii) the amount in column IV of the table which appeared (or was deemed to appear) in section 215(a) on the line which included the figure “750” in column III

as of May 1 of the year in which such determination is made.

(B) *the monthly premium rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a)(1), based upon average indexed monthly earnings of \$900, that applied to individuals who became eligible for and entitled to old-age insurance benefits on May 1 of the year of the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals on the following May 1.*

Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for enrollees age 65 and over as provided in paragraph (1) and the derivation of the dollar amounts specified in this paragraph.¹

(4) The Secretary shall also, during December of 1972 and of each year thereafter, determine the monthly actuarial rate for disabled enrollees under age 65 which shall be applicable for the 12-month period commencing July 1 in the succeeding year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such 12-month period with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be incurred in the Federal Supplementary Medical Insurance Trust Fund for such 12-month period with respect to such enrollees. In calculating the monthly actuarial rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin.

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INTERNAL REVENUE CODE OF 1954

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Subtitle A—Income Taxes

* * * * *

CHAPTER 2—TAX ON SELF-EMPLOYMENT INCOME

* * * * *

SEC. 1401. RATE OF TAX.

(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, [a tax equal to 7.0 per cent of the amount of the self-employment income for such taxable year.]

a tax (subject to section 3125) as follows:

(1) in the case of any taxable year beginning before January 1, 1978, the tax shall be equal to 7.0 percent of the amount of the self-employment income for such taxable year;

(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to 7.10 percent of the amount of the self-employment income for such taxable year;

(3) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1985, the tax shall be equal to 7.70 percent of the amount of the self-employment income for such taxable year;

(4) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1990, the tax shall be equal to 8.20 percent of the amount of the self-employment income for such taxable year; and

(5) in the case of any taxable year beginning after December 31, 1989, the tax shall be equal to 9.00 percent of the amount of the self-employment income for such taxable year.

(b) **HOSPITAL INSURANCE.**—In addition to the tax imposed by the preceding subsection, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

(1) in the case of any taxable year beginning after December 31, 1973, and before January 1, 1978, the tax shall be equal to 0.90 percent of the amount of the self-employment income for such taxable year;

(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to [1.10] 1.00 percent of the amount of the self-employment income for such taxable year.

(3) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1986, the tax shall be equal to [1.35] 1.30 percent of the amount of the self-employment income for such taxable year; and

(4) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to [1.50 percent] 1.45 percent of the amount of the self-employment income for such taxable year.

(c) **RELIEF FROM TAXES IN CASES COVERED BY CERTAIN INTERNATIONAL AGREEMENTS.**—During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, the self-employment income of an individual shall be exempt from the taxes imposed by this section to the extent that such self-employment income is subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.

SEC. 1402. DEFINITIONS.

(a) **NET EARNINGS FROM SELF-EMPLOYMENT.**—The term “net earnings from self-employment” means the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702(a) (8) from any trade or business carried on by a partnership of which he is a member; except that

in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

(1) there shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares) together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) in the production or the management of the production of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) with respect to any such agricultural or horticultural commodity;

(2) there shall be excluded dividends on any share of stock, and interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a government or political subdivision thereof), unless such dividends and interest are received in the course of a trade or business as a dealer in stocks or securities;

(3) there shall be excluded any gain or loss—

(A) which is considered as gain or loss from the sale or exchange of a capital asset.

(B) from the cutting of timber, or the disposal of timber, coal, or iron ore, if section 631 applies to such gain or loss, or

(C) from the sale, exchange, involuntary conversion, or other disposition of property if such property is neither—

(i) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor

(ii) property held primarily for sale to customers in the ordinary course of the trade or business;

(4) the deduction for net operating losses provided in section 172 shall not be allowed;

(5) if—

(A) any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income

and deductions of the wife] spouse who exercises the greater management and control over the trade or business, except that such income and deductions shall be divided equally between the two spouses if each spouse exercises the same amount of management and control over the trade or business, and

(B) any portion of a partner's distributive share of the ordinary income or loss from a trade or business carried on by a partnership is community income or loss under the community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner, and no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner;

(6) a resident of Puerto Rico shall compute his net earnings from self-employment in the same manner as a citizen of the United States but without regard to section 933;

(7) the deduction for personal exemptions provided in section 151 shall not be allowed;

(8) an individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c)(4) without regard to section 107 (relating to rental value of parsonages), section 119 (relating to meals and lodging furnished for the convenience of the employer), section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States);

(9) the term "possession of the United States" as used in sections 931 (relating to income from sources within possessions of the United States) and 932 (relating to citizens of possessions of the United States) shall be deemed not to include the Virgin Islands, Guam, or American Samoa;

(10) there shall be excluded amounts received by a partner pursuant to a written plan of the partnership, which meets such requirements as are prescribed by the Secretary, and which provides for payments on account of retirement, on a periodic basis, to partners generally or to a class or classes of partners, such payments to continue at least until such partner's death, if—

(A) such partner rendered no services with respect to any trade or business carried on by such partnership (or its successors) during the taxable year of such partnership (or its successors), ending within or with his taxable year, in which such amounts were received, and

(B) no obligation exists (as of the close of the partnership's taxable year referred to in subparagraph (A)) from the other partners to such partner except with respect to retirement payments under such plan, and

(C) such partner's share, if any, of the capital of the partnership has been paid to him in full before the close of the partnership's taxable year referred to in subparagraph (A);
[and]

(11) in the case of an individual who has been a resident of the United States during the entire taxable year, the exclusion from gross income provided by section 911(a)(2) shall not apply.

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based on the ordinary income or loss of the partnership for any taxable year of the partnership ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 3121(g)—

(i) in the case of an individual, if the gross income derived by him from such trade or business is not more than \$2,400, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be $66\frac{2}{3}$ percent of such gross income; or

(ii) in the case of an individual, if the gross income derived by him from such trade or business is more than \$2,400 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than \$1,600, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be \$1,600; and

(iii) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after gross income has been reduced by the sum of all payments to which such section 707(c) applies) is not more than \$2,400, his distributive share of income described in section 702(a)(8) derived from such trade or business may, at his option, be deemed to be an amount equal to $66\frac{2}{3}$ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is more than \$2,400 and his distributive share (whether or not distributed) of income described in section 702(a)(8) derived from such trade or business (computed under this subsection without regard to this sentence) is less than \$1,600, his distributive share of income described in section 702(a)(8) derived from such trade or business may, at his option, be deemed to be \$1,600.

For purposes of the preceding sentence, gross income means—

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was

purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of this subsection; and

(vi) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

The preceding sentence and clauses (i) through (iv) of the second preceding sentence shall also apply in the case of any trade or business (other than a trade or business specified in such second preceding sentence) which is carried on by an individual who is self-employed on a regular basis as defined in subsection (i), or by a partnership of which an individual is a member on a regular basis as defined in subsection (i), but only if such individual's net earnings from self-employment as determined without regard to this sentence in the taxable year are less than \$1,600 and less than 66 $\frac{2}{3}$ percent of the sum (in such taxable year) of such individual's gross income derived from all trade or businesses carried on by him and his distributive share of the income or loss from all trades or businesses carried on by all the partnerships of which he is a member; except that this sentence shall not apply to more than 5 taxable years in the case of any individual, and in no case in which an individual elects to determine the amount of his net earnings from self-employment for a taxable year under the provisions of the two preceding sentences with respect to a trade or business to which the second preceding sentence applies and with respect to a trade or business to which this sentence applies shall such net earnings for such years exceed \$1,600[.]; and

(12) there shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than guaranteed payments described in section 707(c) to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services.

(b) **SELF-EMPLOYMENT INCOME.**—The term “self-employment income” means the net earnings from self-employment derived by an individual (other than a nonresident alien individual) during any taxable year, except that such term shall not include—

(1) that part of the net earnings from self-employment which is in excess of (i) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which such tax-

able year begins, minus (ii) the amount of the wages paid to such individual during such taxable years, or

(2) the net earnings from self-employment, if such net earnings for the taxable year are less than \$400.

For purposes of clause (1), the term "wages" (A) includes such remuneration paid to an employee for services included [under an agreement entered into pursuant to the provisions of section 218 of the Social Security Act (relating to coverage of State employees), or] *as would be wages* under an agreement entered into pursuant to the provisions of section 3121(1) (relating to coverage of citizens of the United States who are employees of foreign subsidiaries of domestic corporations), as would be wages under section 3121(a) if such services constituted employment under section 3121(b), and (B) includes compensation which is subject to the tax imposed by section 3201 or 3211. An individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for purposes of this chapter be considered to be a nonresident alien individual.

(c) **TRADE OR BUSINESS.**—The term "trade or business", when used with reference to self-employment income or net earnings from self-employment, shall have the same meaning as when used in section 162 (relating to trade or business expenses), except that such term shall not include—

(1) the performance of the functions of a public office, other than the functions of a public office of a State or a political subdivision thereof with respect to fees received in any period in which the functions are performed in a position compensated solely on a fee basis [and in which such functions are not covered under an agreement entered into by such State and the Secretary of Health, Education, and Welfare pursuant to section 218 of the Social Security Act];

(2) the performance of service by an individual as an employee, other than—

(A) service described in section 3121(b) [(14)(B)] (11)

(B) performed by an individual who has attained the age of 18.

(B) service described in section 3121(b) [(16)] (13),

(C) service described in section 3121(b) [(11), (12), or (15)] (8), (9), or 12 performed in the United States (as defined in section 3121(e) (2)) by a citizen of the United States,

(D) service described in paragraph (4) of this subsection.

(E) service performed by an individual as an employee of a State or a political subdivision thereof in a position compensated solely on a fee basis [with respect to fees received in any period in which such service is not covered under an agreement entered into by such State and the Secretary of Health, Education, and Welfare pursuant to section 218 of the Social Security Act, and]

(F) service described in section 3121(b) [(20)] (17);

(3) the performance of service by an individual as an employee or employee representative as defined in section 3231;

(4) the performance of service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(5) the performance of service by an individual in the exercise of his profession as a Christian Science practitioner; or

(6) the performance of service by an individual during the period for which an exemption under subsection (h) is effective with respect to him.

The provisions of paragraph (4) or (5) shall not apply to service (other than service performed by a member of a religious order who has taken a vow of poverty as a member of such order) performed by an individual unless an exemption under subsection (e) is effective with respect to him.

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Subtitle C—Employment Taxes

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CHAPTER 21—FEDERAL INSURANCE CONTRIBUTIONS ACT

* * * * *

Subchapter A—Tax on Employees

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SEC. 3101. RATE OF TAX.

(a) **OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.**—In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the following percentages (*subject to section 3125*) of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b))—

[(1) with respect to wages received during the calendar years 1974 through 2010, the rate shall be 4.95 percent; and

[(2) with respect to wages received after December 31, 2010, the rate shall be 5.95 percent]

(1) *with respect to wages received during the calendar years 1974 through 1977, the rate shall be 4.95 percent;*

(2) *with respect to wages received during the calendar years 1978 through 1980, the rate shall be 5.05 percent;*

(3) *with respect to wages received during the calendar years 1981 through 1984, the rate shall be 5.15 percent;*

(4) *with respect to wages received during the calendar years 1985 through 1989, the rate shall be 5.45 percent; and*

(5) *with respect to wages received after December 31, 1989, the rate shall be 6.00 percent.*

(b) **HOSPITAL INSURANCE.**—In addition to the tax imposed by the preceding subsection there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as

defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b))—

(1) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

(2) with respect to wages received during the calendar years 1978 through 1980, the rate shall be [1.10] 1.00 percent;

(3) with respect to wages received during the calendar years 1981 through 1985, the rate shall be [1.35] 1.30 percent; and

(4) with respect to wages received after December 31, 1985, the rate shall be [1.50] 1.45 percent.

(c) *RELIEF FROM TAXES IN CASES COVERED BY CERTAIN INTERNATIONAL AGREEMENTS.*—During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by the section to the extent that such wages are subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.

SEC. 310. DEDUCTION OF TAX FROM WAGES.

(a) *REQUIREMENT.*—The tax imposed by section 3101 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. An employer who in any calendar quarter pays to an employee cash remuneration to which paragraph (7) (B) [or (C) or (10)] of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar quarter is less than \$50; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (7) (C) or (10) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than \$100; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (8) (B) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than \$150 and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (12) (B) of section 3121(a) is applicable may deduct an amount equivalent to such tax with respect to such tips from any wages of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than \$20.

* * * * *

(c) SPECIAL RULE FOR TIPS—

(1) In the case of tips which constitute wages, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that collection can be made by the employer, at or after the time such statement is so furnished and before the close of the 10th day following the calendar month (or, if paragraph (3) applies, the 30th day following the [quarter] year) in which the tips were deemed paid, by deducting the amount of the tax from such wages of the employee (excluding tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) as are under control of the employer.

(2) If the tax imposed by section 3101, with respect to tips which are included in written statements furnished in any month to the employer pursuant to section 6053(a), exceeds the wages of the employee (excluding tips) from which the employer is required to collect the tax under paragraph (1), the employee may furnish to the employer on or before the 10th day of the following month (or, if paragraph (3) applies, on or before the 30th day of the following [quarter] year) an amount of money equal to the amount of the excess.

(3) The Secretary may, under regulations prescribed by him, authorize employers—

(A) to estimate the amount of tips that will be reported by the employee pursuant to section 6053(a) in any [quarter] of the] calendar year.

(B) to determine the amount to be deducted upon each payment of wages (exclusive of tips) during such [quarter] year as if the tips so estimated constituted the actual tips so reported, and

(C) to deduct upon any payment of wages (other than tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) to such employee during such [quarter] year (and within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted upon such wages of the employee during the [quarter] year to the amount required to be deducted in respect to tips included in written statements furnished to the employer during the [quarter] year.

(4) If the tax imposed by section 3101 with respect to tips which constitute wages exceeds the portion of such tax which can be collected by the employer from the wages of the employee pursuant to paragraph (1) or paragraph (3), such excess shall be paid by the employee.

Subchapter B—Tax on Employers

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SEC. 3111. RATE OF TAX.

(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there is hereby imposed on every employer an excise tax with respect to having individuals in his employ, equal to the following

percentages (*subject to section 3125*) of the wages (as defined in section 3121(a)) paid by him with respect to employment (as defined in section 3121(b))—

[(1) with respect to wages paid during the calendar years 1974 through 2010, the rate shall be 4.95 percent; and

[(2) with respect to wages paid after December 31, 2010, the rate shall be 5.95 percent]

(1) *with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 4.95 percent;*

(2) *with respect to wages paid during the calendar years 1978 through 1980, the rate shall be 5.05 percent;*

(3) *with respect to wages paid during the calendar years 1981 through 1984, the rate shall be 5.15 percent;*

(4) *with respect to wages received during the calendar years 1985 through 1989, the rate shall be 5.45 percent; and*

(5) *with respect to wages paid after December 31, 1989, the rate shall be 6.00 percent.*

(b) HOSPITAL INSURANCE.—In addition to the tax imposed by the preceding subsection, there is hereby imposed on every employer an excise tax with respect to having individuals in this employ, equal to the following percentages of the wages (as defined in section 3121(a)) paid by him with respect to employment (as defined in section 3121(b))—

(1) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

(2) with respect to wages paid during the calendar years 1978 through 1980, the rate shall be [1.10] 1.00 percent;

(3) with respect to wages paid during the calendar years 1981 through 1985, the rate shall be [1.35] 1.30 percent; and

(4) with respect to wages paid after December 31, 1985, the rate shall be [1.50] 1.45 percent.

(c) RELIEF FROM TAXES IN CASES COVERED BY CERTAIN INTERNATIONAL AGREEMENTS.—During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.

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Subchapter C—General Provisions

Sec. 3121. Definitions.

Sec. 3122. Federal service.

Sec. 3123. Deductions as constructive payments.

Sec. 3124. Estimate of revenue reduction.

[Sec. 3125. Returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia.

[Sec. 3126. Short title.]

Sec. 3125. Increase in tax rates to assure repayment of loans made to trust funds.

Sec. 3126. Returns in the case of State and local governmental employees.

Sec. 3127. Returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia.

Sec. 3128. Short title.

SEC. 3121. DEFINITIONS.

(a) **WAGES.**—For purposes of this chapter, the term “wages” means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(1) that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) with respect to employment has been paid to an individual by an employer during the calendar year with respect to which such contribution and benefit base is effective, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

(2) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of—

(A) retirement, or

(B) sickness or accident disability, or

(C) medical or hospitalization expenses in connection with sickness or accident disability, or

(D) death;

(3) any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(4) any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of,

an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for such employer;

(5) any payment made to, or on behalf of, an employee or his beneficiary—

(A) from or to a trust described in section 401(a) which is exempt from tax under section 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust,

(B) under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a), or

(C) under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a);

(6) the payment by an employer (without deduction from the remuneration of the employee)—

(A) of the tax imposed upon an employee under section 3101 (or the corresponding section of prior law), or

(B) of any payment required from an employee under a State unemployment compensation law;

(7) (A) remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(B) cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50. As used in this subparagraph, the term "domestic service in a private home of the employer" does not include service described in subsection (g) (5);

(C) cash remuneration paid by an employer in any calendar [quarter] year to an employee for service not in the course of the employer's trade or business, if the cash remuneration paid in such [quarter] year by the employer to the employee for such service is less than [\$50] \$100. As used in this subparagraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in subsection (g) (5);

(8) (A) remuneration paid in any medium other than cash for agricultural labor;

(B) cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless (i) the cash remuneration paid in such year by the employer to the employee for such labor is \$150 or more, or (ii) the employee performs agricultural labor for the employer on 20 days or more during such year for cash remuneration computed on a time basis;

(9) any payment (other than vacation or sick pay) made to an employee after the month in which he attains age 62, if such employee did not work for the employer in the period for which such payment is made;

(10) remuneration paid by an employer in any calendar [quarter] year to an employee for service described in subsection (d) (3) (C) (relating to home workers), if the cash remuneration paid in such [quarter] year by the employer to the employee for such service is less than [\\$50;] \$100;

(11) remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217;

(12) (A) tips paid in any medium other than cash;

(B) cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is \$20 or more;

(13) any payment or series of payments by an employer to an employee or any of his dependents which is paid—

(A) upon or after the termination of an employee's employment relationship because of (i) death, (ii) retirement for disability, or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer, and

(B) under a plan established by the employer which makes provision for his employees generally or a class or classes of his employees (or for such employees or class or classes of employees and their dependents),

other than such payment or series of payments which would have been paid if the employee's employment relationship had not been so terminated;

(14) any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died; [or]

(15) any payment made by an employer to an employee, if at the time such payment is made such employee is entitled to disability insurance benefits under section 223(a) of the Social Security Act and such entitlement commenced prior to the calendar year in which such payment is made, and if such employee did not perform any services for such employer during the period for which such payment is made[.]; or

(16) remuneration paid by an organization exempt from income tax under section 501(a) (other than an organization described in section 401(a)) or under section 521 in any calendar year to an employee for service rendered in the employ of such organization, if the remuneration paid in such year by the organization to the employee for such service is less than \$100.

(b) EMPLOYMENT.—For purposes of this chapter, the term "employment" means any service, of whatever nature, performed either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft

when outside the United States, or (B) outside the United States by a citizen of the United States as an employee for an American employer (as defined in subsection (h)) ; except that such term shall not include—

(1) service performed by foreign agricultural workers (A) under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended (7 U.S.C. 1461-1468), or (B) lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

(2) domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3) (A) service performed by an individual in the employ of his spouse, and service performed by a child under the age of 21 in the employ of his father or mother;

(B) service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service if—

(i) the employer is a surviving spouse or a divorced individual and has not remarried, or has a spouse living in the home who has a mental or physical condition which results in such spouse's being incapable of caring for a son, daughter, stepson, or stepdaughter (referred to in clause (ii)) for at least 4 continuous weeks in the calendar quarter in which the service is rendered, and

(ii) a son, daughter, stepson, or stepdaughter of such employer is living in the home, and

(iii) the son, daughter, stepson, or stepdaughter (referred to in clause (ii)) has not attained age 18 or has a mental or physical condition which requires the personal care and supervision of an adult for at least 4 continuous weeks in the calendar quarter in which the service is rendered;

(4) service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if (A) the individual is employed on and in connection with such vessel or aircraft, when outside the United States and (B) (i) such individual is not a citizen of the United States or (ii) the employer is not an American employer;

[(5) service performed in the employ of any instrumentality of the United States, if such instrumentality is exempt from the tax imposed by section 3111 by virtue of any provision of law which specifically refers to such section (or the corresponding section of prior law) in granting such exemption;

[(6) (A) service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is covered by a retirement system established by a law of the United States;

[(B) service performed by an individual in the employ of an instrumentality of the United States if such an instrumentality was exempt from the tax imposed by section 1410 of the Internal Revenue Code of 1939 on December 31, 1950, and if such service is covered by a retirement system established by such instrumentality; except that the provisions of this subparagraph shall not be applicable to—

[(i) service performed in the employ of a corporation which is wholly owned by the United States;

[(ii) service performed in the employ of a Federal land bank, a Federal intermediate credit bank, a bank for cooperatives, a Federal land bank association, a production credit association, a Federal Reserve Bank, a Federal Home Loan Bank, or a Federal Credit Union;

[(iii) service performed in the employ of a State, county, or community committee under the Commodity Stabilization Service;

[(iv) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; or

[(v) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Transportation, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard;

[(C) service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is performed—

[(i) as the President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner of or to the Congress;

[(ii) in the legislative branch;

[(iii) in a penal institution of the United States by an inmate thereof;

[(iv) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government) other than as a medical or dental intern or a medical or dental resident in training;

[(v) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency; or

[(vi) by any individual to whom subchapter III of chapter 83 of title 5, United States Code, does not apply because such individual is subject to another retirement system (other than the retirement system of the Tennessee Valley Authority) :]

[(7) service performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, except that this paragraph shall not apply in the case of—

[(A) service which, under subsection (j), constitutes covered transportation service,

[(B) service in the employ of the Government of Guam or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, performed by an officer or employee thereof (including a member of the legislature of any such Government or political subdivision), and, for purposes of this title with respect to the taxes imposed by this chapter—

[(i) any person whose service as such an officer or employee is not covered by a retirement system established by a law of the United States shall not, with respect to such service, be regarded as an employee of the United States or any agency or instrumentality thereof, and

[(ii) the remuneration for service described in clause (i) (including fees paid to a public official) shall be deemed to have been paid by the Government of Guam or the Government of American Samoa or by a political subdivision thereof or an instrumentality of any one or more of the foregoing which is wholly owned thereby whichever is appropriate,

[(C) service performed in the employ of the District of Columbia or any instrumentality which is wholly owned thereby, if such service is not covered by a retirement system established by a law of the United States; except that the provisions of this subparagraph shall not be applicable to service performed—

[(i) in a hospital or penal institution by a patient or inmate thereof;

[(ii) by any individual as an employee included under section 5351 (2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or as a medical or dental resident in training;

[(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or other similar emergency; or

[(iv) by a member of a board, committee, or council of District of Columbia, paid on a per diem, meeting, or other fee basis, or

[(D) service performed in the employ of the Government of Guam (or any instrumentality which is wholly owned by

such Government) by an employee properly classified as a temporary or intermittent employee, if such service is not covered by a retirement system established by a law of Guam; except that (i) the provisions of this subparagraph shall not be applicable to services performed by an elected official or a member of the legislature or in a hospital or penal institution by a patient or inmate thereof, and (ii) for purposes of this subparagraph, clauses (i) and (ii) of subparagraph (B) shall apply;]

[(8)(A)] (5) service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, except that this [subparagraph] *paragraph* shall not apply to service performed by a member of such an order in the exercise of such duties, if an election of coverage under subsection (r) is in effect with respect to such order, or with respect to the autonomous subdivision thereof to which such member belongs;

[(B)] service performed in the employ of a religious, charitable, educational, or other organization described in section 501(c)(3) which is exempt from income tax under section 501(a), but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to subsection (k) (or the corresponding subsection of prior law) or deemed to have been so filed under paragraph (4) or (5) of such subsection, is in effect if such service is performed by an employee—

[(i)] whose signature appears on the list filed (or deemed to have been filed) by such organization under subsection (k) (or the corresponding subsection of prior law),

[(ii)] who became an employee of such organization after the calendar quarter in which the certificate (other than a certificate referred to in clause (iii)) was filed (or deemed to have been filed), or

[(iii)] who, after the calendar quarter in which the certificate was filed (or deemed to have been filed) with respect to a group described in section 3121(k)(1)(E), became a member of such group,

[except that this subparagraph shall apply with respect to service performed by an employee as a member of a group described in section 3121(k)(1)(E) with respect to which no certificate is (or is deemed to be) in effect;]

[(9)] (6) service performed by an individual as an employee or employee representative as defined in section 3231;

[(10)(A)] service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) (other than an organization described in section 401(a)) or under section 521, if the remuneration for such service is less than \$50;

[(B) service] (7) service performed in the employ of—

[(i)] (A) a school, college, or university, or

[(ii)] (B) an organization described in section 509 (a) (3) if the organization is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of a school, college, or university and is operated, supervised, or controlled by or in connection with such school, college, or university [, unless it is a school, college, or university of a State or a political subdivision thereof and the services performed in its employ by a student referred to in section 218(c) (5) of the Social Security Act are covered under the agreement between the Secretary of Health, Education, and Welfare and such State entered into pursuant to section 218 of such Act ;

if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university ;];

[(11)] (8) service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative) ;

[(12)] (9) service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) if the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) if the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

[(13)] (10) service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law ;

[(14)] (11) (A) service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution ;

(B) service performed by an individual in, and at the time or, sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back ;

[(15)] (12) service performed in the employ of an international organization ;

[(16)] (13) service performed by an individual under an arrangement with the owner or tenant of land pursuant to which—

(A) such individual undertakes to produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land.

(B) the agricultural or horticultural commodities produced by such individual, or the proceeds therefrom, are to be divided between such individual and such owner or tenant, and

(C) the amount of such individual's share depends on the amount of the agricultural or horticultural commodities produced;

[(17)] (14) service in the employ of any organization which is performed (A) in any [quarter] year during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended, as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and (B) after June 30, 1956;

[(18)] (15) service performed in Guam by a resident of the Republic of the Philippines while in Guam on a temporary basis as a nonimmigrant alien admitted to Guam pursuant to section 101(a) (15)(H) (ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a) (15) (H) (ii));

[(19)] (16) service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a) (15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be; or

[(20)] (17) service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which—

(A) such individual does not receive any cash remuneration (other than as provided in subparagraph (B)),

(B) such individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and

(C) the amount of such individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals.

(c) INCLUDED AND EXCLUDED SERVICE.—For purposes of this chapter, if the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more

than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term "pay period" means a period (of not more than 31 consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by subsection (b) [9](6).

* * * * *

(g) **AGRICULTURAL LABOR.**—For purposes of this chapter, the term "agricultural labor" includes all service performed—

(1) on a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(3) in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended (12 U.S.C. 1141j), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(4) (A) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed;

(B) in the employ of a group of operators of farms (other than a co-operative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than 20 at any time during the calendar [quarter] year in which such service is performed;

(C) the provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(5) on a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

* * * * *

[(j) COVERED TRANSPORTATION SERVICE.—For purposes of this chapter—

[(1) EXISTING TRANSPORTATION SYSTEMS—GENERAL RULE.—Except as provided in in paragraph (2), all service preformed in the employ of a State or political subdivision in connection with its operation of a public transportation system shall constitute covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and prior to 1951.

[(2) EXISTING TRANSPORTATION SYSTEMS—CASES IN WHICH NO TRANSPORTATION EMPLOYEES, OR ONLY CERTAIN EMPLOYEES, ARE COVERED.—Service performed in the employ of a State or political subdivision in connection with the operation of its public transportation system shall not constitute covered transportation service if—

[(A) any part of the transportation system was acquired from private ownership after 1936 and prior to 1951, and substantially all service in connection with the operation of the transportation system was, on December 31, 1950, covered under a general retirement system providing benefits which, by reason of a provision of the State constitution dealing specifically with retirement systems of the State or political subdivisions thereof, cannot be diminished or impaired; or

[(B) no part of the transportation system operated by the State or political subdivision on December 31, 1950, was acquired from private ownership after 1936 and prior to 1951;

except that if such State or political subdivision makes an acquisition after 1950 from private ownership of any part of its transportation system, then, in the case of any employee who—

[(C) became an employee of such State or political subdivision in connection with and at the time of its acquisition after 1950 of such part, and

[(D) prior to such acquisition rendered service in employment (including as employment service covered by an agreement under section 218 of the Social Security Act) in connection with the operation of such part of the transportation system acquired by the State or political subdivision.

the service of such employee in connection with the operation of the transportation system shall constitute covered transportation service, commencing with the first day of the third calendar quarter following the calendar quarter in which the acquisition of such part took place, unless on such first day such service of such

employee is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees described in subparagraph (C).

[(3) TRANSPORTATION SYSTEMS ACQUIRED AFTER 1950.—All service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system shall constitute covered transportation service if the transportation system was not operated by the State or political subdivision prior to 1951 and, at the time of its first acquisition (after 1950) from private ownership of any part of its transportation system, the State or political subdivision did not have a general retirement system covering substantially all service performed in connection with the operation of the transportation system.

[(4) DEFINITIONS.—For purposes of this subsection—

[(A) The term “general retirement system” means any pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof for employees of the State, political subdivision, or both; but such terms shall not include such a fund or system which covers only service performed in positions connected with the operation of its public transportation system.

[(B) A transportation system or a part thereof shall be considered to have been acquired by a State or political subdivision from private ownership if prior to the acquisition service performed by employees in connection with the operation of the system or part thereof acquired constituted employment under this chapter or subchapter A of chapter 9 of the Internal Revenue Code of 1939 or was covered by an agreement made pursuant to section 218 of the Social Security Act and some of such employees became employees of the State or political subdivision in connection with and at the time of such acquisition.

[(C) The term “political subdivision” includes an instrumentality of—

[(i) a State,

[(ii) one or more political subdivisions of a State, or

[(iii) a State and one or more of its political subdivisions.]

(k) EXEMPTION OF RELIGIOUS, CHARITABLE, AND CERTAIN OTHER ORGANIZATIONS.—

(1) WAIVER OF EXEMPTION BY ORGANIZATION.—

(A) An organization described section 501(c)(3) which is exempt from income tax under section 501(a) may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations made under this chapter) certifying that it desires to have the insurance system established by title II of Social Security Act extended to service performed by its employees. Such certificate may be filed only if it is accompanied by a list containing the signature, address, and social security account number (if any) of each employee (if any) who concurs in the filing of the certificate.

Such list may be amended at any time prior to the expiration of the twenty-fourth month following the calendar quarter in which the certificate is filed by filing with the prescribed official a supplemental list or lists containing the signature, address, and social security account number (if any) of each additional employee who concurs in the filing of the certificate. The list and any supplemental list shall be filed in such form and manner as may be prescribed by regulations made under this chapter.

(B) The certificate shall be in effect (for purposes of subsection (b) (8) (B) and for purposes of section 210(a) (8) (B) of the Social Security Act) for the period beginning with whichever of the following may be designated by the organization:

- (i) the first day of the calendar quarter in which the certificate is filed,
- (ii) the first day of the calendar quarter succeeding such quarter, or
- (iii) the first day of any calendar quarter preceding the calendar quarter in which the certificate is filed, except that such date may not be earlier than the first day of the twentieth calendar quarter preceding the quarter in which such certificate is filed.

(C) In the case of service performed by an employee whose name appears on a supplemental list filed after the first month following the calendar quarter in which the certificate is filed, the certificate shall be in effect (for purposes of subsection (b) (8) (B) and for purposes of section 210(a) (8) (B) of the Social Security Act) only with respect to service performed by such individual for the period beginning with the first day of the calendar quarter in which such supplemental list is filed.

(D) **[The period]** *Subject to subparagraph (G), the period* for which a certificate filed pursuant to this subsection or the corresponding subsection of prior law is effective may be terminated by the organization, effective at the end of a calendar quarter, upon giving 2 years' advance notice in writing, but only if, at the time of the receipt of such notice, the certificate has been in effect for a period of not less than 8 years. The notice of termination may be revoked by the organization by giving, prior to the close of the calendar quarter specified in the notice of termination, a written notice of such revocation. Notice of termination or revocation thereof shall be filed in such form and manner, and with such official, as may be prescribed by regulations made under this chapter.

(E) If an organization described in subparagraph (A) employs both individuals who are in positions covered by a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof and

individuals who are not in such positions, the organization shall divide its employees into two separate groups. One group shall consist of all employees who are in positions covered by such a fund or system and (i) are members of such fund or system, or (ii) are not members of such fund or system but are eligible to become members thereof; and the other group shall consist of all remaining employees. An organization which has so divided its employees into two groups may file a certificate pursuant to subparagraph (A) with respect to the employees in either group, or may file a separate certificate pursuant to such subparagraph with respect to the employees in each group.

(F) If a certificate filed pursuant to this paragraph is effective for one or more calendar quarters prior to the quarter in which the certificate is filed, then—

(i) for purposes of computing interest and for purposes of section 6651 (relating to addition to tax for failure to file tax return or pay tax), the due date for the return and payment of the tax for such prior calendar quarters resulting from the filing of such certificate shall be the last day of the calendar month following the calendar quarter in which the certificate is filed; and

(ii) the statutory period for the assessment of such tax shall not expire before the expiration of 3 years from such due date.

(G) *No period for which a certificate is effective may be terminated under subparagraph (D) or paragraph (2) unless the applicable advance notice referred to in such subparagraph or paragraph is given on or before September 13, 1977.*

(2) **TERMINATION OF WAIVER PERIOD BY SECRETARY.**—[If] *Subject to paragraph (1) (G), if the Secretary finds that any organization which filed a certificate pursuant to this subsection or the corresponding subsection of prior law has failed to comply substantially with the requirements applicable with respect to the taxes imposed by this chapter or the corresponding provisions of prior law or is no longer able to comply with the requirements applicable with respect to the taxes imposed by this chapter, the Secretary shall give such organization not less than 60 days' advance notice in writing that the period covered by such certificate will terminate at the end of the calendar quarter specified in such notice. Such notice of termination may be revoked by the Secretary by giving, prior to the close of the calendar quarter specified in the notice of termination, written notice of such revocation to the organization. No notice of termination or of revocation thereof shall be given under this paragraph to an organization without the prior concurrence of the Secretary of Health, Education, and Welfare.*

(3) **NO RENEWAL OF WAIVER.**—In the event the period covered by a certificate filed pursuant to this subsection or the correspond-

ing subsection of prior law is terminated by the organization, no certificate may again be filed by such organization pursuant to this subsection.

(4) CONSTRUCTIVE FILING OF CERTIFICATE WHERE NO REFUND OR CREDIT OF TAXES HAS BEEN MADE.—

(A) In any case where—

(i) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) has not filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) as of the date of the enactment of this paragraph or any subsequent date, but

(ii) the taxes imposed by sections 3101 and 3111 have been paid with respect to the remuneration paid by such organization to its employees, as though such a certificate had been filed, during any period (subject to subparagraph (B)(i) of not less than three consecutive calendar quarters,

such organization shall be deemed (except as provided in subparagraph (B) of this paragraph) for purposes of subsection (b)(8)(B) and section 210(a)(8)(B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) on the first day of the period described in clause (ii) of this subparagraph effective on the first day of the calendar quarter in which such period began, and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee with respect to whom the taxes described in such subparagraph were paid (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate).

(B) Subparagraph (A) shall not apply with respect to any organization if—

(i) the period referred to in clause (ii) of such subparagraph (in the case of that organization) terminated before the end of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph, or

(ii) a refund or credit of any part of the taxes which were paid as described in clause (ii) of such subparagraph with respect to remuneration for services performed on or after the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of enactment of this paragraph (other than a refund or credit which would have been allowed if a valid waiver certificate filed under paragraph (1) had been in effect) has been obtained by the organization or its employees prior to September 9, 1976.

(5) CONSTRUCTIVE FILING OF CERTIFICATE WHERE REFUND OR CREDIT HAS BEEN MADE AND NEW CERTIFICATE IS NOT FILED.—In any case where—

(A) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) would be deemed under paragraph (4) of this subsection to have filed a valid waiver certificate under paragraph (1) if it were not excluded from such paragraph (4) (pursuant to subparagraph (B)(ii) thereof) because a refund or credit of all or a part of the taxes described in paragraph (4)(A)(ii) was obtained prior to September 9, 1976; and

(B) such organization has not, prior to the expiration of 180 days after the date of the enactment of this paragraph, filed a valid waiver certificate under paragraph (1) which is effective for a period beginning on or before the first day of the first calendar quarter with respect to which such refund or credit was made (or, if later, with the first day of the earliest calendar quarter for which such certificate may be in effect under paragraph (1)(B)(iii)) and which is accompanied by the list described in paragraph (1)(A),

such organization shall be deemed, for purposes of subsection (b)(8)(B) and section 210(a)(8)(B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection on the 181st day after the date of the enactment of this paragraph, effective for the period beginning on the first day of the first calendar quarter with respect to which the refund or credit referred to in subparagraph (A) of this paragraph was made (or, if later, with the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph), and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee described in subparagraph (A) of paragraph (4) including any employee with respect to whom taxes were refunded or credited as described in subparagraph (A) of this paragraph (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate). A certificate which is deemed to have been filed by an organization on such 181st day shall supersede any certificate which may have been actually filed by such organization prior to that day except to the extent prescribed by the Secretary.

(6) APPLICATION OF CERTAIN PROVISIONS TO CASES OF CONSTRUCTIVE FILING.—All of the provisions of this subsection (other than subparagraphs (B), (F), and (H) of paragraph (1)), including the provisions requiring payment of taxes under sections 3101 and 3111 with respect to the services involved, shall apply with respect to any certificate which is deemed to have been filed by an organization on any day under paragraph (4) or (5), in the same way they would apply if the certificate had been actually filed on that day under paragraph (1); except that—

(A) the provisions relating to the filing of supplemental lists of concurring employees in the third sentence of paragraph (1) (A), and in paragraph (1) (C), shall apply to the extent prescribed by the Secretary;

(B) the provisions of paragraph (1) (E) shall not apply unless the taxes described in paragraph (4) (A) (ii) were paid by the organization as though a separate certificate had been filed with respect to one or both of the groups to which such provisions relate; and

(C) the action of the organization in obtaining the refund or credit described in paragraph (5) (A) shall not be considered a termination of such organization's coverage period for purposes of paragraph (3). Any organization which is deemed to have filed a waiver certificate under paragraph (4) or (5) shall be considered for purposes of section 3102 (b) to have been required to deduct the taxes imposed by section 3101 with respect to the services involved.

(7) BOTH EMPLOYEE AND EMPLOYER TAXES PAYABLE BY ORGANIZATION FOR RETROACTIVE PERIOD IN CASES OF CONSTRUCTIVE FILING.—Notwithstanding any other provision of this chapter, in any case where an organization described in paragraph (5) (A) has not filed a valid waiver certificate under paragraph (1) prior to the expiration of 180 days after the date of the enactment of this paragraph and is accordingly deemed under paragraph (5) to have filed such a certificate on the 181st day after such date, the taxes due under section 3101, with respect to services constituting employment by reason of such certificate for any period prior to the first day of the calendar quarter in which such 181st day occurs (along with the taxes due under section 3111 with respect to such services and the amount of any interest paid in connection with the refund or credit described in paragraph (5) (A)) shall be paid by such organization from its own funds and without any deduction from the wages of the individuals who performed such services; and those individuals shall have no liability for the payment of such taxes.

(8) EXTENDED PERIOD FOR PAYMENT OF TAXES FOR RETROACTIVE COVERAGE.—Notwithstanding any other provision of this title, in any case where an organization described in paragraph (5) (A) files a valid waiver certificate under paragraph (1) by the end of the 180-day period following the date of the enactment of this paragraph as described in paragraph (5) (B), or (not having filed such a certificate within that period) is deemed under paragraph (5) to have filed such a certificate on the 181st day following that date, the taxes due under sections 3101 and 3111 with respect to services constituting employment by reason of such certificate for any period prior to the first day of the calendar quarter in which the date of such filing or constructive filing occurs may be paid in installments over an appropriate period of time, as determined under regulations prescribed by the Secretary, rather than in a lump sum.

* * * * *

(m) **SERVICE IN THE UNIFORMED SERVICE.**—For purposes of this chapter—

[(1) **INCLUSION OF SERVICE.**—The term “employment” shall, notwithstanding the provisions of subsection (b) of this section, include service performed by an individual as a member of a uniformed service on active duty; but such term shall not include any such service which is performed while on leave without pay.]

(1) **INCLUSION OF SERVICE.**—*The term “employment” shall include service (other than service performed while on leave without pay) which is performed by an individual as a member of a uniformed service on active duty after December 1956.*

(2) **ACTIVE DUTY.**—The term “active duty” means “active duty” as described in section 102 of the Servicemen’s and Veterans’ Survivor Benefits Act, except that it shall also include “active duty for training” as described in such section.

(3) **INACTIVE DUTY TRAINING.**—The term “inactive duty training” means “inactive duty training” as described in such section 102.

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(p) **PEACE CORPS VOLUNTEER SERVICE.**—For purposes of this chapter, the term “employment” shall [, notwithstanding the provisions of subsection (b) of this section,] include service performed by an individual as a volunteer or volunteer leader within the meaning of the Peace Corps Act.

* * * * *

(r) **ELECTION OF COVERAGE BY RELIGIOUS ORDERS.**—

(1) **CERTIFICATE OF ELECTION BY ORDER.**—A religious order whose members are required to take a vow of poverty, or any autonomous subdivision of such order, may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations under this chapter) electing to have the insurance system established by title II of the Social Security Act extended to services performed by its members in the exercise of duties required by such order or such subdivision thereof. Such certificate of election shall provide that—

(A) such election of coverage by such order or subdivision shall be irrevocable;

(B) such election shall apply to all current and future members of such order, or in the case of a subdivision thereof to all current and future members of such order who belong to such subdivision;

(C) all services performed by a member of such an order or subdivision in the exercise of duties required by such order or subdivision shall be deemed to have been performed by such member as an employer of such order or subdivision; and

(D) the wages of each member, upon which such order or subdivision shall pay the taxes imposed by sections 3101 and 3111, will be determined as provided in subsection (i) (4).

(2) **DEFINITION OF MEMBER.**—For purposes of this subsection, a member of a religious order means any individual who is subject

to a vow of poverty as a member of such order and who performs tasks usually required (and to the extent usually required) of an active member of such order and who is not considered retired because of old age or total disability.

(3) **EFFECTIVE DATE FOR ELECTION.**—(A) A certificate of election of coverage shall be in effect, for purposes of subsection **[(b)(8)(A)] (b)(5)** and for purposes of **[210(a)(8)(A)] 210(a)(5)** of the Social Security Act, for the period beginning with whichever of the following may be designated by the order or subdivision thereof:

(i) the first day of the calendar quarter in which the certificate is filed,

(ii) the first day of the calendar quarter succeeding such quarter, or

(iii) the first day of any calendar quarter preceding the calendar quarter in which the certificate is filed, except that such date may not be earlier than the first day of the twentieth calendar quarter preceding the quarter in which such certificate is filed.

Whenever a date is designated under clause (iii), the election shall apply to services performed before the quarter in which the certificate is filed only if the member performing such services was a member at the time such services were performed and is living on the first day of the quarter in which such certificate is filed.

(B) If a certificate of election filed pursuant to this subsection is effective for one or more calendar quarters prior to the quarter in which such certificate is filed, then—

(i) for purposes of computing interest and for purposes of section 6651 (relating to addition to tax for failure to file tax return), the due date for the return and payment of the tax for such prior calendar quarters resulting from the filing of such certificate shall be the last day of the calendar month following the calendar quarter in which the certificate is filed; and

(ii) the statutory period for the assessment of such tax shall not expire before the expiration of 3 years from such due date.

(4) **COORDINATION WITH COVERAGE OF LAY EMPLOYEES.**—Notwithstanding the preceding provisions of this subsection, no certificate of election shall become effective with respect to an order or subdivision thereof, unless—

(A) if at the time the certificate of election is filed a certificate of waiver of exemption under subsection (k) is in effect with respect to such order or subdivision, such order or subdivision amends such certificate of waiver of exemption (in such form and manner as may be prescribed by regulations made under this chapter) to provide that it may not be revoked, or

(B) if at the time the certificate of election is filed a certificate of waiver of exemption under such subsection is not in effect with respect to such order or subdivision, such order or

subdivision files such certificate of waiver of exemption under the provisions of such subsection except that such certificate of waiver of exemption cannot become effective at a later date than the certificate of election and such certificate of waiver of exemption must specify that such certificate of waiver of exemption may not be revoked. The certificate of waiver of exemption required under this subparagraph shall be filed notwithstanding the provisions of subsection (k) (3).

(s) *SPECIAL RULE FOR DETERMINING WAGES SUBJECT TO EMPLOYER TAX IN CASE OF CERTAIN EMPLOYERS WHOSE EMPLOYEES RECEIVE INCOME FROM TIPS.*—If the wages paid by an employer with respect to the employment during any month of an individual who (for services performed in connection with such employment) receives tips which constitute wages, and to which section 3102(a) applies, are less than the total amount which would be payable (with respect to such employment) at the minimum wage rate applicable to such individual under section 6(a) (1) of the Fair Labor Standards Act of 1938 (determined without regard to section 3(m) of such Act), the wages so paid shall be deemed for purposes of section 3111 to be equal to such total amount.

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SEC. 3124. ESTIMATE OF REVENUE REDUCTION.

The Secretary at intervals of not longer than 3 years shall estimate the reduction in the amount of taxes collected under this chapter by reason of the operation of section 3121[(b) (9)](b) (6) and shall include such estimate in his annual report.

SEC. 3125. INCREASE IN TAX RATES TO ASSURE REPAYMENT OF LOANS MADE TO TRUST FUNDS.

Whenever an appropriation has been made under section 201(j) (1) of the Social Security Act for loans to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, and section 201(j) (2) of such Act applies with respect to a succeeding calendar year, each of the rates of tax which would otherwise be effective under sections 3101(a) and 3111(a) with respect to wages received or paid in the second calendar year after such succeeding year shall be increased by 0.10 percent, and the rate or rates of tax which would otherwise be effective under section 1401(a) with respect to taxable years beginning in the second year after such succeeding year shall be increased by 0.15 percent.

SEC. 3126. RETURNS IN THE CASE OF STATE AND LOCAL GOVERNMENTAL EMPLOYEES.

In the case of the taxes imposed by this chapter with respect to services performed in the employ of a State or any political subdivision thereof, or in the employ of any instrumentality of a State or political subdivision thereof which is wholly owned thereby, the return and payment of the taxes may be made by the Governor of such State or such agents as he may designate. The person making such return may, for convenience of administration, make payments of the tax imposed by section 3111 with respect to such service without regard to the contribution and benefit base limitation in section 3121(a) (1).

SEC. [3125.] 3127. RETURNS IN THE CASE OF GOVERNMENTAL EMPLOYEES IN GUAM, AMERICAN SAMOA, AND THE DISTRICT OF COLUMBIA.

(a) **GUAM.**—The return and payment of the taxes imposed by this chapter on the income of individuals who are officers or employees of the Government of Guam or any political subdivision thereof or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, and those imposed on such Government or political subdivision or instrumentality with respect to having such individuals in its employ, may be made by the Governor of Guam or by such agents as he may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to the service of such individuals without regard to the contribution and benefit base limitation in section 3121(a)(1).

(b) **AMERICAN SAMOA.**—The return and payment of the taxes imposed by this chapter on the income of individuals who are officers or employees of the Government of American Samoa or any political subdivision thereof or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, and those imposed on such Government or political subdivision or instrumentality with respect to having such individuals in its employ may be made by the Governor of American Samoa or by such agents as he may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to the service of such individuals without regard to the contribution and benefit base limitation in section 3121(a)(1).

(c) **DISTRICT OF COLUMBIA.**—In the case of the taxes imposed by this chapter with respect to service performed in the employ of the District of Columbia or in the employ of any instrumentality which is wholly owned thereby, the return and payment of the taxes may be made by the Mayor of the District of Columbia or such agents as he may designate. The person making such return may, for convenience of administration, make payments of the tax imposed by section 3111 with respect to such service without regard to the contribution and benefit base limitation in section 3121(a)(1).

SEC. [3126.] 3128. SHORT TITLE.

This chapter may be cited as the "Federal Insurance Contributions Act."

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Subtitle F—Procedure and Administration

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CHAPTER 61—INFORMATION AND RETURNS

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Subchapter A—Returns and Records

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PART III—INFORMATION RETURNS

Subpart C—Information Regarding Wages Paid Employees

SEC. 6051. RECEIPTS FOR EMPLOYEES.

(a) REQUIREMENT.—Every person required to deduct and withhold from an employee a tax under section 3101 or 3402, or who would have been required to deduct and withhold a tax under section 3402 (determined without regard to subsection (n)) if the employee had claimed no more than one withholding exemption, or every employer engaged in a trade or business who pays remuneration for services performed by an employee, including the cash value of such remuneration paid in any medium other than cash, shall furnish to each employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

- (1) the name of such person,
- (2) the name of the employee (and his social security account number if wages as defined in section 3121(a) have been paid),
- (3) the total amount of wages as defined in section 3401(a),
- (4) the total amount deducted and withheld as tax under section 3402,
- (5) the total amount of wages as defined in section 3121(a). and
- (6) the total amount deducted and withheld as tax under section 3101.

In the case of compensation paid for service as a member of a uniformed service, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i) (2). In the case of compensation paid for service as a volunteer or volunteer leader within the meaning of the Peace Corps Act, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i) (3). In the case of tips received by an employee in the course of his employment, the amounts required to be shown by paragraphs (3) and (5) shall include only such tips as are included in statements furnished to the employer pursuant to section 6053(a). *The amounts required to be shown by paragraph (5) shall not include wages which are exempted pursuant to sections 3101(c) and 3111(c) from the taxes imposed by section 3101 and 3111.*

CHAPTER 63—ASSESSMENT

Subchapter A—In General

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SEC. 6205. SPECIAL RULES APPLICABLE TO CERTAIN EMPLOYMENT TAXES.

(a) ADJUSTMENT OF TAX.—

(1) **GENERAL RULE.**—If less than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid with respect to any payment of wages or compensation, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary may by regulation prescribe.

(2) **UNITED STATES AS EMPLOYER.**—For purposes of this subsection, in the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer.

(3) **STATE AS EMPLOYER.**—*For purposes of this subsection, in the case of remuneration received during any calendar year from a State or political subdivision thereof or any instrumentality which is wholly owned thereby, the Governor of the State and each agent designated by him who makes a return pursuant to section 3126 shall be deemed a separate employer.*

[(3)] (4) **GUAM OR AMERICAN SAMOA AS EMPLOYER.**—For purposes of this subsection, in the case of remuneration received during any calendar year from the Government of Guam, the Government of American Samoa, a political subdivision of either, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, the Governor of Guam, the Governor of American Samoa, and each agent designated by either who makes a return pursuant to section [3125] 3127 shall be deemed a separate employer.

[(4)] (5) **DISTRICT OF COLUMBIA AS EMPLOYER.**—For purposes of this subsection, in the case of remuneration received during any calendar year from the District of Columbia or any instrumentality which is wholly owned thereby, the Mayor of the District of Columbia and each agent designated by him who makes a return pursuant to section [3125] 3127 shall be deemed a separate employer.

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CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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Subchapter B—Rules of Special Application

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SEC. 6413. SPECIAL RULES APPLICABLE TO CERTAIN EMPLOYMENT TAXES.

(a) ADJUSTMENT OF TAX.—

(1) **GENERAL RULE.**—If more than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid with respect to any payment of remuneration, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary may by regulations prescribe.

(2) **UNITED STATES AS EMPLOYER.**—For purposes of this subsection, in the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer.

(3) **STATE AS EMPLOYER.**—*For purposes of this subsection, in the case of remuneration received during any calendar year from a State or political subdivision thereof or any instrumentality which is wholly owned thereby, the Governor of the State and each agent designated by him who makes a return pursuant to section 3126 shall be deemed a separate employer.*

[(3)] (4) GUAM OR AMERICAN SAMOA AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received during any calendar year from the Government of Guam, the Government of American Samoa, a political subdivision of either, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, the Governor of Guam, the Governor of American Samoa, and each agent designated by either who makes a return pursuant to section **[3125]** 3127 shall be deemed a separate employer.

[(4)] (5) DISTRICT OF COLUMBIA AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received during any calendar year from the District of Columbia or any instrumentality which is wholly owned thereby, the Mayor of the District of Columbia and each agent designated by him who makes a return pursuant to section **[3125]** 3127 shall be deemed a separate employer.

* * * * *

(c) SPECIAL REFUNDS.—

(1) **IN GENERAL.**—If by reason of an employee receiving wages from more than one employer during a calendar year the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 or section 3201, or by both such sections, and deducted from the employee's wages (whether or not paid to the Secretary), which exceeds the tax with respect to the amount of such wages received in such year which is equal

to such contribution and benefit base. The term "wages" as used in this paragraph shall, for purposes of this paragraph, include "compensation" as defined in section 3231(e).

(2) **APPLICABILITY IN CASE OF FEDERAL AND STATE EMPLOYEES, EMPLOYEES OF CERTAIN FOREIGN CORPORATIONS, AND GOVERNMENTAL EMPLOYEES IN GUAM, AMERICAN SAMOA, AND THE DISTRICT OF COLUMBIA.**—

(A) **FEDERAL EMPLOYEES.**—In the case of remuneration received from the United States or a wholly owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for purposes of this subsection, be deemed a separate employer, and the term "wages" includes for purposes of this subsection the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year with respect to which such contribution and benefit base is effective, determined by each such head or agent as constituting wages paid to an employee.

(B) **STATE EMPLOYEES.**—For purposes of this subsection, in the case of remuneration received during any calendar year [, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 218 of the Social Security Act as would be wages if such services constituted employment; the term "employer" includes a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing; the term "tax" or "tax imposed by section 3101" includes, in the case of services covered by an agreement made pursuant to section 218 of the Social Security Act, an amount equivalent to the tax which would be imposed by section 3101, if such services constituted employment as defined in section 3121; and the provisions of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of an agreement made pursuant to section 218 of the Social Security Act has been paid to the Secretary] *from a State or political subdivision thereof or any instrumentality which is wholly owned thereby, the Governor of the State and each agent designated by him who makes a return pursuant to section 3126 shall be deemed a separate employer.*

(C) **EMPLOYEES OF CERTAIN FOREIGN CORPORATIONS.**—For purposes of paragraph (1) of this subsection, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 3121(1) as would be wages if such services constituted employment; the term "employer" includes any domestic corporation which has entered into an agreement pursuant to section 3121(1); the term "tax" or "tax imposed by section 3101," includes, in the case of services covered by an agreement entered into pursuant to section 3121(1), an amount equivalent to the tax which would be imposed by section 3101, if such services constituted

employment as defined in section 3121; and the provisions of paragraph (1) of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of the agreement entered into pursuant to section 3121 (1) has been paid to the Secretary.

(D) **GOVERNMENTAL EMPLOYEES IN GUAM.**—In the case of remuneration received from the Government of Guam or any political subdivision thereof or from any instrumentality of any one or more of the foregoing which is wholly owned thereby, during any calendar year, the Governor of Guam and each agent designated by him who makes a return pursuant to section [3125(a)] 3127(a) shall, for purposes of this subsection, be deemed a separate employer.

(E) **GOVERNMENTAL EMPLOYEES IN AMERICAN SAMOA.**—In the case of remuneration received from the Government of American Samoa or any political subdivision thereof or from any instrumentality of any one or more of the foregoing which is wholly owned thereby, during any calendar year, the Governor of American Samoa and each agent designated by him who makes a return pursuant to section [3125(b)] 3127(b) shall, for purposes of this subsection, be deemed a separate employer.

(F) **GOVERNMENTAL EMPLOYEES IN THE DISTRICT OF COLUMBIA.**—In the case of remuneration received from the District of Columbia or any instrumentality wholly owned thereby, during any calendar year, the Mayor of the District of Columbia and each agent designated by him who makes a return pursuant to section [3125(c)] 3127(c), shall, for purposes of this subsection, be deemed a separate employer.

(3) **APPLICABILITY WITH RESPECT TO COMPENSATION OF EMPLOYEES SUBJECT TO THE RAILROAD RETIREMENT TAX ACT.**—In the case of any individual who, during any calendar year, receives wages from one or more employers and also receives compensation which is subject to the tax imposed by section 3201 or 3211, such compensation shall, solely for purposes of applying paragraph (1) with respect to the tax imposed by section 3101(b), be treated as wages received from an employer with respect to which the tax imposed by section 3101(b) was deducted.

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CHAPTER 66—LIMITATIONS

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Subchapter B—Limitations on Credit or Refund

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SEC. 6511. LIMITATIONS ON CREDIT OR REFUND.

(a) * * *

* * * * *

(d) **SPECIAL RULES APPLICABLE TO INCOME TAXES.**—

(1) **SEVEN-YEAR PERIOD OF LIMITATION WITH RESPECT TO BAD DEBTS AND WORTHLESS SECURITIES.**—If the claim for credit or refund re-

lates to an overpayment of tax imposed by subtitle A on account of—

(A) The deductibility by the taxpayer, under section 166 or section 832(c), of a debt as a debt which became worthless, or, under section 165(g), of a loss from worthlessness of a security, or

(B) The effect that the deductibility of a debt or loss described in subparagraph (A) has on the application to the taxpayer of a carryover,

in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be 7 years from the date prescribed by law for filing the return for the year with respect to which the claim is made. If the claim for credit or refund relates to an overpayment on account of the effect that the deductibility of such a debt or loss has on the application to the taxpayer of a carryback, the period shall be either 7 years from the date prescribed by law for filing the return for the year of the net operating loss which results in such carryback or the period prescribed in paragraph (2) of this subsection, whichever expires the later. In the case of a claim described in this paragraph the amount of the credit or refund may exceed the portion of the tax paid within the period prescribed in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the deductibility of items described in this paragraph.

(2) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO NET OPERATING LOSS OR CAPITAL LOSS CARRYBACKS.—

(A) PERIOD OF LIMITATION.—If the claim for credit or refund relates to an overpayment attributable to a net operating loss carryback or a capital loss carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or the 39th month, in the case of a corporation) following the end of the taxable year of the net operating loss or net capital loss which results in such carryback, or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later; except that—

(i) with respect to an overpayment attributable to a net operating loss carryback to any year on account of a certification issued to the taxpayer under section 317 of the Trade Expansion Act of 1962, the period shall not expire before the expiration of the sixth month following the month in which such certification is issued to the taxpayer, and

(ii) with respect to an overpayment attributable to the creation of, or an increase in, a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A)), the period shall not expire before the expiration of the twelfth month following the month in which the agreement or order for the elimination of such excessive profits becomes final.

In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period

provided in subsection (b) (2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

(B) APPLICABLE RULES.—

(i) If the allowance of a credit or refund of an overpayment of tax attributable to a net operating loss carryback or a capital loss carryback is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. If the allowance of an application, credit, or refund of a decrease in tax determined under section 6411 (b) is otherwise prevented by the operation of any law or rule of law other than section 7122, such application, credit, or refund may be allowed or made if application for period provided in section 6411(a). In the case of any such claim for credit or refund or any such application for a tentative carryback adjustment, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to the net operating loss deduction, and the effect of such deduction, or with respect to the determination of a short-term capital loss, and the effect of such short-term capital loss, to the extent that such deduction or short-term capital loss is affected by a carryback which was not an issue in such proceeding.

(ii) A claim for credit or refund for a computation year (as defined in section 1302(c)(1)) shall be determined to relate to an overpayment attributable to a net operating loss carryback or a capital loss carryback, as the case may be, when such carryback relates to any base period year (as defined in section 1302(c)(3)).

(3) SPECIAL RULES RELATING TO FOREIGN TAX CREDIT.—

(A) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO FOREIGN TAXES PAID OR ACCRUED.—If the claim for credit or refund relates to an overpayment attributable to any taxes paid or accrued to any foreign country or to any possession of the United States for which credit is allowed against the tax imposed by subtitle A in accordance with the provisions of section 901 or the provisions of any treaty to which the United States is a party, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be 10 years from the date prescribed by law for filing the return for the year with respect to which the claim is made.

(B) EXCEPTION IN THE CASE OF FOREIGN TAXES PAID OR ACCRUED.—In the case of a claim described in subparagraph (A), the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the allowance of a credit for the taxes described in subparagraph (A).

(4) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO INVESTMENT CREDIT CARRYBACK.—

(A) PERIOD OF LIMITATION.—If the claim for credit or refund relates to an overpayment attributable to an investment credit carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused investment credit which results in such carryback (or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, the period shall be that period which ends with the expiration of the 15th day of the 40th month, or 39th month, in the case of a corporation, following the end of such subsequent taxable year) or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b) (2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

(B) APPLICABLE RULES.—If the allowance of a credit or refund of an overpayment of tax attributable to an investment credit carryback is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall not be conclusive with respect to the investment credit, and the effect of such credit, to the extent that such credit is affected by a carryback which was not in issue in such proceeding.

[(5) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO SELF-EMPLOYMENT TAX IN CERTAIN CASES.—If the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to an agreement, or modification of an agreement, made pursuant to section 218 of the Social Security Act (relating to coverage of State and local employees), and if the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises), such credit or refund may be allowed or made if claim therefor is filed on or before the last day of the second year after the calendar year in which such agreement (or modification) is agreed to by the State and the Secretary of Health, Education, and Welfare.]

COMPUTATION OF EMPLOYEE ANNUITIES

SEC. 3. (a) * * *

* * * * *

(f) (1) If the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section would, before any reductions on account of age, before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act, and disregarding any increases in such total amount which become effective after the date on which such begins to accrue, exceed an amount equal to the sum of individual's annuity under section 2(a) (1) of this Act (A) 100 per centum of his "final average monthly compensation" up to an amount equal to 50 per centum of one-twelfth of the maximum annual taxable "wages" (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year in which such individual's annuity under section 2(a) (1) of this Act begins to accrue, plus (B) 80 per centum of so much of his "final average monthly compensation" as exceeds 50 per centum of one-twelfth of the maximum annual taxable "wages" (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year in which such individual's annuity under section 2(a) (1) of this Act begins to accrue, the supplemental annuity of such individual first, and then, if necessary, the annuity amount of such individual as computed under subsections (b), (c), and (d) of this section, shall be reduced until such total amount of such individual's annuity and supplemental annuity equals such sum or until such supplemental annuity and such annuity amount computed under subsections (b), (c), and (d) of this section are reduced to zero, whichever occurs first: *Provided, however,* That the provisions of this subdivision shall not operate to reduce the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section below \$1,200. For purposes of this subdivision, the "final average monthly compensation" of an individual shall be determined by dividing the total compensation received by such individual in the two calendar years, consecutive or otherwise, in which he was credited with the highest total compensation during the ten-year period ending with December 31 of the year in which such individual's annuity under section 2(a) (1) of this Act begins to accrue by 24. For purposes of this subdivision, the term "compensation" shall include "compensation" as defined in section 1(h) of this Act, "wages" as defined in section 209 of the Social Security Act, "self-employment income" as defined in section 211(b) of the Social Security Act, and wages deemed to have been paid under section 217 or 229 of the Social Security Act on account of military service: *Provided, however,* That in no case shall the compensation with respect to any calendar month exceed the limitation on the compensation for such month prescribed in subsection (j) of this section. Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited, in the case of wages *paid before 1978*, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income *and in the case of wages paid after 1977*.

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VIII. INDIVIDUAL VIEWS OF HON. SAM M. GIBBONS

The social security system is in a mess. This bill does not correct it . . . or even come close to correcting it. In some ways it makes the situation worse because, by increasing the taxes levied without correcting the fundamental problems of the system, the bill moves us away from a solution instead of toward one.

The social security program has both short run and long run problems. Both of these are serious. The bill attempts to solve the short run problems but it fails. It does not even attempt to solve the long run problems.

Once again we are raising revenues and once again we are increasing benefits. This cannot go on forever and in fact it has already gone too far.

At present there are slightly more than three persons in the nation's work force for each person drawing social security benefits. By the year 2015 A.D., there will be only one person in the work force for each person receiving benefits. At that time or before, there will be a revolt by those who are forced to carry the burden of financing this program.

The Ways and Means Committee has failed in its responsibility to produce a solution to the short run or the long run problems of the social security program. I cannot support this legislation.

SAM M. GIBBONS.

IX. DISSENTING VIEWS OF HON. JOSEPH L. FISHER

The Social Security financing bill as approved by the Ways and Means Committee is a big step toward reversing the outflow of funds from the Trust Funds of the system. Although I did not think the Committee should report the bill with the provision for universal coverage of all Federal, State, and local government and non-profit organization employees, I did believe that the balance of the bill offered many improvements. The bill accelerates the increase in the wage base subject to the employment tax; it corrects the overindexing of future benefits; it removes inequities in the treatment of widows, widowers, and divorced persons; it increases the amount of wages that retirees can earn before their Social Security benefits are reduced, and it provides standby loan authority to bolster the trust funds if they fall below a certain level. The net effect of these changes is to assure retirees and workers that the Social Security system will remain capable of paying them the benefits they have worked for and been promised by Congress. The increased taxes will continue to be shared equally by individuals and employers. Meeting the higher cost will not be pleasant, but it is necessary to put Social Security on a long-term basis. But the extension of mandatory coverage to government employees, even if set for 1982, is unwise at least until an analysis of the economic impact can be made, and in the case of Federal workers, a plan worked out and enacted to integrate Social Security with the existing Civil Service Retirement system without any loss or harm to government workers.

The tax increases and some other changes in the bill are intended and expected to keep the three Trust Funds from falling below 25 percent of annual payments. If the calculations are wrong and the reserves should be depleted below that level, then the bill would permit the Old Age and Survivors Insurance (OASI) and the Disability Insurance (DI) Trust Funds to borrow funds from the general treasury to replenish the reserves. No borrowing authority is provided for the Health Insurance Trust Fund which is in good condition anyway. To assure that the loans are repaid the committee also approved a temporary payroll tax increase to be triggered if the loans are made. Should that situation arise, I believe that the Subcommittee on Social Security should be expected immediately to develop a proposal to strengthen the system in order to eliminate the need to borrow, either by changing the tax rate, the wage base, benefits, or whatever is necessary. The standby loan authority may be a necessary psychological safeguard, but the Committee should never allow the system to become so weak that it has to be invoked.

The universal coverage provision is the most objectionable feature of the bill, not because coverage for all workers is inherently a bad policy, but because the consequences of extending mandatory coverage to the remaining 6 to 7 million workers not presently covered have not

been fully explored. Nearly half these workers are Federal employees and most of the remainder work for state and local governments. The revenue to the system expected to come from universal coverage in 1982 is \$13.5 billion. Because the tax is shared equally by employer and employee, half of this infusion of revenue will come from Federal, state, and local treasuries. The Committee may have rejected direct general revenue financing of Social Security but apparently it is willing to accept general revenues through the back door. The Federal employer share will have to be paid either from an increase in income taxes or in the deficit. The transfer of Federal general treasury funds to the Social Security Trust Fund will take place whether or not coordination is worked out between Civil Service Retirement and Social Security. Even more disturbing is the prospect that state and local governments will have to pay nearly \$4 billion more in 1982 to the Federal treasury as the employer share of Social Security taxes. Some 30 percent of state and local government employees are not now under Social Security. These jurisdictions will have to raise the funds for the employer share in some way. One way would be to reduce existing pension benefits, which may not be permissible under the law. Another way would be to hike the property tax and other regressive taxes which are the mainstay of local government finance.

Since 1950 State and local governments have been able voluntarily to bring their employees under Social Security. The proportion of employees so covered reached the 70 percent level in the early 1960's and has been stable at that point. Clearly, for various reasons, state and local governments have decided that it was not in their best interests to bring the remainder of their employees under this coverage. Without a thorough study of those reasons, this Committee should not arbitrarily attempt to override such local decisions.

The issue of coverage of Federal workers has been examined several times, with the usual conclusion that a way should be found to fill in gaps in coverage rather than requiring full Social Security coverage. A report due from the Social Security Administration in consultation with the Civil Service Commission in 1972 was never submitted, apparently because a workable plan could not be agreed on for coordinating the Social Security system with the Civil Service Retirement system. Prior to that, a 1969 report from the Secretary of HEW found that "... the liberalization and independent development of the civil service retirement and social security systems over a long period of time present formidable obstacles to the adoption of the (universal) coverage approach."

In the absence of a plan for coordinating the two systems for Federal employees, and in the absence of accurate cost estimates, I must conclude that the Committee has acted in haste in mandating universal coverage. The Committee did accept my amendment to delay the effective date of coverage and to require the preparation of a plan to make sure that no Federal employee would be worse off under the combined systems than he would have been under the Federal system alone. But this puts the cart before the horse. The plan should be presented and considered by the appropriate committees of Congress before universal coverage is required.

If there are "formidable obstacles" to coordinating Social Security and Federal staff retirement systems, over both of which Congress has control, there probably would be even greater difficulties in doing the same for state and local systems. Some of these systems are poorly financed. It is possible that the state and local governments will abandon or sharply curtail these pension plans once they are faced with the added costs of Social Security. What would be the consequences of this kind of action for employees who had counted on these pensions for their old age? Would Social Security be adequate in such cases? The answer truly is that we do not know. We should not act to require the coverage until we do know.

From the point of view of costs and consequences to the employer in terms of new tax obligations, and to the employee in terms of changed or possibly diminished benefits, and to all taxpayers in terms of yet more taxes—we simply do not have adequate information from which we can conclude that the extension of universal coverage is prudent and fair at this time.

For these reasons I intend to offer an amendment when the Social Security financing bill is before the House of Representatives to remove the provisions for universal coverage.

X. MINORITY VIEWS OF HON. BARBER B. CONABLE, JR.,
HON. JOHN J. DUNCAN, HON. BILL ARCHER, HON. GUY
VANDER JAGT, HON. WILLIAM A. STEIGER, HON. BILL
FRENZEL, HON. JAMES G. MARTIN, HON. L. A. (SKIP)
BAFALIS, HON. WILLIAM M. KETCHUM, HON. RICHARD
T. SCHULZE, AND HON. WILLIS D. GRADISON, JR.

Most Americans are genuinely worried about the future of their social security system. They have reason to be.

The system is severely deficient, both in money and equity. The people who benefit from it, those who support it, and the following generations of participants, deserve a sound and far-reaching solution to social security problems. But they will not get it through the Committee bill.

The bill raises taxes too high and too soon, serving to depress an already shaky economy and to dampen job prospects at a time when the unemployment rate is hovering around an unhealthy 7 percent. The additional payroll levies which are imposed tilt the entire national tax structure even more lopsidedly against the already overburdened middle class in our society.

The bill falls far short of solving the system's long-range financial deficit, dumping this problem in the lap of the next generation. It leaves a 75-year social security deficit of 1.69 percent of taxable payroll, which translates into about \$880 billion—a tidy sum our children will have to raise.

It fails to provide enough of the structural improvements which our changing society needs and wants, leaving the system with too many inequities and anomalies. Perhaps the most glaring example of the bill's inadequacies in this regard is its "tokenistic" handling of the earnings limitation on beneficiaries. Instead of removing the limit or increasing it substantially, the bill provides advances that are almost negligible.

The bill relies, for added revenue, on a rapidly accelerated taxable wage base—a ruse which: (1) victimizes middle-income Americans; (2) cuts sharply the money available for savings or for spending in the market place, and (3) deals a damaging blow to efforts toward greater capital formation, which is badly needed in our struggling economy today. Increases in the wage base provide revenue in the short-term, but do not help over the long run because the added funds must be paid out in higher benefits later.

It opens a door to general revenue financing by requiring the social security trust funds to borrow from the Treasury whenever year-end reserves drop below 25 percent of annual outgo. Although projections indicate this borrowing might not take place, the provision sets a potential precedent which is bad policy on two main counts:

(1) If the system is supported by money other than that contributed by participants, then its insurance character is under-

mined and benefits eventually are likely to be paid on the basis of one's need, not one's earned right.

(2) The Treasury already has a huge deficit, therefore a transfer from general funds to the social security trust funds means Treasury will have to borrow more money, which increases the public debt and ultimately produces higher taxes and greater inflation for all.

The Committee bill has some sensible provisions, but because of the major flaws cited above, our opinion of it can be summed up in one short sentence: There has to be a better way.

We have developed what we believe to be a better way, in a comprehensive, 15-point "Proposal for Financial Restoration and Equity Strengthening of the Social Security System". We intend to offer this Proposal, which is described below, as a substitute for the Committee bill when it reaches the Floor of the House. We encourage our colleagues to compare and contrast the two.

We acknowledge that some elements of our Proposal are politically controversial. But we have had to face the fact that, when it comes to dealing squarely with social security problems, there is no "free lunch".

There also are no easy choices, yet choices must be made, because the problems will not go away.

We hope our colleagues will join us in making a difficult choice—now. A vote against both alternatives available would be a vote in favor of imminent bankruptcy for the social security system. Here are some comparisons for consideration:

The Committee bill takes care of the system's financial problems on a short-range basis only, it fails to address such equity issues as that of the working wife, it tends to weaken the system's insurance character, and it unwisely and unnecessarily calls for substantial tax increases, starting next year.

Our Proposal, which is designed to be considered as an indivisible unit, would put the system on a sound financial footing for at least the next 75 years; correct numerous inequities, particularly those related to the treatment of women; and strengthen the insurance character of social security. It would do all this with no new tax increase until 1981 and with less than a $1\frac{1}{4}$ percent tax increase over that scheduled under present law for the entire 75-year span.

The Committee bill raises the amount of money a retiree aged 65 or older can earn without having benefits reduced by a total of only \$1,020 more than present law over the next two years.

Our Proposal removes the earnings limitation entirely for those beneficiaries by 1980.

In terms of the actual burdens on those who pay social security taxes, these additional comparisons might be made:

The Committee bill requires much higher taxable wage bases than under present law (totaling \$6,000 by 1981) for employees, employers and the self-employed.

Our Proposal does not raise the taxable wage base above what would result under present law.

In terms of actual dollar outlays over the next five years, contributors at the maximum rate would have to pay an estimated \$1,475.25 more under the Committee bill than under our Proposal. That's a difference of nearly \$300 per taxpayer per year.

In summary, the Committee bill costs more than our Proposal, both in the near future and over the long run, while it offers less in terms of structural improvements.

For that reason, we think our Proposal is a bargain. There are prices to pay for the problems it solves. But the prices are reasonable, in view of alternatives, including the Committee bill.

Our "Proposal for Financial Restoration and Equity Strengthening of the Social Security System" has five general objectives. It would: (1) Make the social security system financially sound for at least the next 75 years; (2) Strengthen the insurance character of the system; (3) Improve the treatment of women under the system; (4) Make long-needed adjustments to reflect changes in living and working patterns of the American people; (5) Move toward universal coverage—appropriate for a nationwide, mandatory social insurance system.

The most important objective is restoration of the financial soundness of the system, which faces an estimated deficit of 8.2 percent of taxable payroll over the next 75 years. This proposal would virtually eliminate that long-term deficit. It also would solve the serious cash-flow problems facing the Social Security trust funds now and in the near future.

ANALYSIS OF THE PROPOSAL FOR FINANCIAL RESTORATION AND EQUITY STRENGTHENING OF THE SOCIAL SECURITY SYSTEM

SHORT-TERM FINANCING

The financial problems facing the system between now and 1981 would be taken care of through: (1) reallocation of Social Security taxes between the Old-Age and Survivors Insurance (OASI) and Disability Insurance (DI) Trust Funds; and (2) a temporary reassignment of an increase in the tax rates for the Hospital Insurance (HI) Trust Fund, which already (under existing law) is scheduled to take place next year.

The current OASDI tax rate of 9.9 percent (on employers and employees combined) now is allocated: 1.15 percent for DI and 8.75 percent for OASI. It should be reallocated: 1.5 percent for DI and 8.4 percent for OASI. The increased allocation of 0.35 percent to the DI Trust Fund would be sufficient to prevent it from becoming exhausted by 1979 (as can be expected without a change in the law). Reallocation also would cause both Funds to remain viable at least until 1981.

In order to assure further the viability of these two Trust Funds, and to cover the cost of certain improvements in the system starting next year, part of the scheduled increase in the HI tax rate would be diverted temporarily to the OASDI Trust Funds. Present law calls for an increase in the HI tax rate, starting in 1978, from 0.9 percent to 1.1 percent for each employee, employer, and self-employed person. Three-fourths of this increase, or 0.15 percent per worker and employer, would be directed to the OASDI Trust Funds beginning January 1, 1978 and ending December 31, 1981. (This not only would bolster those two Funds, but also would permit a three year phase-out of the earnings limitation starting January 1, 1978.)

[In addition, one-fourth of the 1978 increase in the HI tax rate (i.e., 0.05 percent for both workers and employers) would be permanently directed to the OASDI Trust Funds after 1981. This would not adversely affect the operation of the HI Trust Fund, because the amount of money involved in the diversion is less than the savings to this fund as a result of providing for universal coverage.]

To guarantee the financial viability of all three Trust Funds over the next several years, each should be permitted to borrow from another, solely for the purpose of preventing exhaustion and with appropriate arrangements made in each case for repayment with interest.

(Following are tables showing the 10-year and the 75-year impact of this Proposal on the OASDI Trust Funds:)

PROGRESS OF OASDI TRUST FUNDS UNDER THE PROPOSAL FOR FINANCIAL RESTORATION AND EQUITY
STRENGTHENING OF THE SOCIAL SECURITY SYSTEM

[In billions of dollars]

	Income	Outgo	Net income	Fund at end of year
Year:				
1977.....	82.1	87.6	-5.5	35.6
1978.....	93.1	98.2	-5.1	30.4
1979.....	103.1	110.0	-6.9	23.5
1980.....	113.0	123.3	-10.3	13.2
1981.....	134.1	134.4	-.3	12.9
1982.....	153.9	145.2	+8.7	21.6
1983.....	166.8	157.1	+9.7	31.3
1984.....	178.5	169.7	+8.8	40.1
1985.....	204.8	182.9	+21.9	62.0
1986.....	220.3	196.9	+23.4	85.4
1987.....	236.6	211.6	+25.0	110.4

Long-range (75-yr) impact of proposal for financial restoration and equity strengthening of the social security system

[Impact on long-term OASDI trust funds' deficit loss or gain as percentage of taxable payroll]

Provision:

Decoupling and wage-indexing based on preautomatic adjustment flaw	+4.71
Freezing regular minimum benefit and updating special minimum benefit	+ .09
Increasing the retirement age after 2000.....	+1.35
Eliminating windfall for early retirees.....	+ .24
Limiting disability and survivor benefits to maximum retiree benefits	+ .02
Extending coverage.....	+ .34
Cutting marriage duration requirements for divorcees' eligibility from 20 to 5 yr.....	-.01
Removing benefit cutoff or reduction for marriage or remarriage....	-.08
Adding working spouse's benefit, with offset for other governmental pension	-.65
Ending the earnings limitation for those aged 65 or older.....	-.25
3-stage tax rate increase and HI tax diversion.....	+2.21
Total net effect.....	+7.97
Deficit under present law.....	8.20
Deficit under proposal.....	.23

NOTE.—The system is considered to be within safe actuarial bounds (sufficiently close to absolute balance) if the deficit is no greater than 0.67 percent of taxable payroll.

LONG-RANGE FINANCING

(1) The long-term deficit of the system would be reduced by slightly more than 50 percent through a process called "decoupling", plus wage indexing of the earnings record of the insured worker.

Decoupling was made necessary by what has been termed an inadvertent flaw in the 1972 law which adjusts benefits automatically according to annual increases in the Consumer Price Index. Under the present coupled system, the CPI increases are applied both to payments already being paid to those on the benefit rolls and to the benefit formula which is applicable to future beneficiaries. Decoupling would apply the cost-of-living percentage increases only to current beneficiaries.

The proposal parallels the decoupling-plus-wage-indexing provisions of the Committee bill. For future retirees it equitably stabilizes wage replacement ratios (the relationships between benefits and the earnings on which those benefits are based). To some extent, it would adjust the ultimate benefit level for the overexpansion that has occurred since the automatic-benefit-increase provision was enacted.

This does not mean that benefits would be reduced for those currently receiving benefits. They would be treated exactly as under existing law. Whenever the cost-of-living (as measured by the Consumer Price Index) advances in a year by 3 percent or more, benefits would continue to be increased commensurately.

Nor does it mean that dollar amounts of benefits paid in the future would be lower than present levels. To the contrary, dollar amounts—as well as the purchasing power of benefits—for future retirees would be higher than present levels.

It is important to note that, under this proposal, a 10-year savings clause—or guarantee—would be provided so that no retiree would receive less during that time than he or she would under the present-law formula as it was at the time of the change. In other words, retirees would have their choice. They could take the benefit available under present law at the point of changeover, or they could take the benefit provided under the new method, whichever is larger.

(2) The long-range deficit would be reduced further through a slow, gradual and distant advancement in the retirement age at which full benefits are payable. This proposal would move that age from 65 to 68, by degrees, not starting until the turn of the century and ending in 2011.

We recognize that this is an extremely sensitive issue, one that is conceptually difficult for very young workers to accept, and one that is politically difficult for our colleagues to embrace. But we believe it is an issue which the Congress will be forced to face eventually, for reasons outlined below, and we hope our colleagues will have the courage to confront it now.

The fairest thing to do would be to give the young workers and potential workers, who would be affected by such a change, as much advance notice as possible. The most unfair thing would be to wait until the change proved to be inevitable and to act without warning.

In considering this proposed change, which would affect only those workers aged 39 or younger and would have maximum impact only on

those young than 30, our colleagues are urged to take the following factors into account:

When the Social Security system was enacted, 42 years ago, American workers were not living as long as they are now, nor were they as productive for as long a period of time. In the next century, longevity for men will have increased by about three years, and for women, by about seven years. From time to time, the system has responded to other changes in the working and living habits of the people it serves, and it is reasonable for the system to adjust to these trends also.

It should be borne in mind that while longevity is expected to continue increasing in the foreseeable future, the birth rate has declined drastically and may well continue downward (or else remain at a low level) for years to come. This means there will be fewer workers making contributions, but more retirees receiving benefits. For example, there are now more than three workers contributing to the Social Security system for every beneficiary. But in the next century, that ratio will drop dramatically. There will be only two contributing workers for every one beneficiary.

In view of (1) these demographic projections, (2) the improvement in mortality as well as the physical conditions of older people, and (3) widespread dissatisfaction with mandatory retirement practices—which the Congress has recognized in recently passed legislation—this proposed change can have a salutary impact both on the Social Security system and on the social and economic lives of the American people.

Workers could continue to retire as early as 62, but with slightly greater actuarial reductions than at present, to take into account the longer period of time over which they could be expected to receive benefits.

Specifically, the standard retirement age of 65 would be increased by three months (or one-quarter year) each year starting in 2000. By the year 2011, the minimum retirement age for full benefits would have been increased to 68.

A gradual implementation of this change, with an effective date 33 years in the future, would give people sufficient time to plan for their retirement without severe disruption in any one year, and would permit management and labor to revise employment practices carefully and systematically.

The cost equivalent of not making this change would be an average tax rate increase on each social security contributor of 0.68 percent, starting next year and continuing through 2053.

(3) As noted earlier, the long-range deficit in the OASDI Trust Funds would be reduced additionally by a permanent reassignment, starting in 1982, of a small portion of the Hospital Insurance tax rate. This redirected rate would equal 0.05 percent for workers, employers, and the self-employed.

(4) To further strengthen the financing of the system in future years, contribution rates for employees, employers, and the self-employed would be increased by 0.50 percent in 1981, 0.45 percent in 1985, and 0.25 percent in 2000. Thus, the net addition to the presently-scheduled OASDI tax rates over the next 75 years would be 1.2 percent on employees, employers, and the self-employed.

TAX TREATMENT OF WOMEN AND SEX DISCRIMINATION

The proposal would make significant changes in the Social Security Act designed to improve the treatment of women and to remove remaining sex discrimination language.

First, the proposal would reduce from 20 years to 5 years the duration-of-marriage requirement for one spouse to receive a benefit based on the other's earnings record. Under present law, a divorced spouse retains auxiliary benefit rights only if the divorce occurs after 20 full years of marriage. Critics of the system long have contended that this requirement was unfair, arbitrary, and unrealistic in view of societal changes.

Second, the proposal would end the cutoff or reduction in benefits for those who remarry. Under present law, for example, a widow's remarriage will reduce or cut off entitlement to benefits unless the subsequent marriage ends. A number of persons, especially those living in retirement communities, have complained that current law requires them to "live in sin" in order not to lose Social Security benefits.)

Third, the proposal would amend the Social Security Act to remove remaining sexually discriminatory language.

(All three of the above changes have been incorporated in the Committee bill.)

Fourth, the proposal would provide a new "working spouse's benefit". Under present law a covered worker is always eligible for a benefit based on his or her own earnings record. But if the worker also becomes entitled to an auxiliary benefit, such as a spouse's benefit, he or she is entitled only to the higher of the two benefit amounts available. A number of working spouses (especially wives) have found that they would have been as well off financially, as far as Social Security benefits were concerned, if they had never left the home to enter the labor force. To alleviate this problem and to provide greater recognition of the employment record of a working spouse, the proposal would make the following changes:

1. A spouse who is eligible for an auxiliary or survivor benefit, who also worked under Social Security, could receive a new "working spouse's benefit", which would be equal to (A) the larger amount due either as a spouse or as a worker, plus (B) 25 percent of the smaller of the two benefits (but in no event greater than the maximum primary benefit). Only one spouse would be eligible for this new benefit.

2. Any pension or benefit based on governmental employment not covered under Social Security would be considered as a primary benefit in determining the amount of the Social Security auxiliary or survivor benefit payable. (This change is designed to remove what amounts to a "windfall" benefit in some cases under present law. For example, if a wife worked under Social Security for her entire career, she would be entitled to a primary benefit based on her own earnings record. If her husband had worked exclusively under a state employee's retirement system, he would be entitled to a pension under that system and also might be entitled to an auxiliary (spouse's) benefit based on his wife's Social Security record. Inasmuch as auxiliary and survivors benefits are based more on social adequacy (or need) than on individual equity, the "windfall" situation described above is not one which the Congress contemplated when it provided for survivors and auxiliary benefits in the first place.)

UNIVERSAL COVERAGE

Universal coverage is a natural and desirable goal of any nationwide, mandatory social insurance system. Although about nine of every 10 American workers now participate in the U.S. social security system, it is increasingly difficult to justify to the "nine" why the "one" is not covered. This is especially true in view of the impact of the Social Security payroll tax on the incomes of contributors.

Public discussion of universal coverage has taken place for many years. It has long appeared that a large majority of Americans favor it, but no action has been taken by the Congress. Many difficulties—legal and administrative—have stood in the way.

But the latest Advisory Council on Social Security stated that despite these difficulties, "it is of great importance from the standpoint of assuring good protection for all workers on an equitable basis that all jobs be compulsorily covered under social security". The Council urged the Congress to move promptly toward that goal.

We initially proposed extending coverage to Federal workers only, under a plan that would fully protect their current pension rights and assure them of equitable treatment under an integrated plan in the future. Since then, the Committee has called for extending coverage also (by January 1, 1982) to employees of states, localities and nonprofit organizations. Although we have some reservations about legal and administrative problems associated with covering these additional groups, we accept the Committee's decision in this matter and herewith modify our Proposal accordingly.

INSURANCE AND EQUITY STRENGTHENING

To strengthen the insurance character of the system and, at the same time, to provide greater equity, the proposal also would:

1. Remove the earnings limitation on those who have reached the eligibility age for full retirement benefits. More bills have been introduced to abolish the limitation than to make any other change in the system. During recent public hearings before the Ways and Means Committee's Subcommittee on Social Security, repeal of the limitation was the most widely discussed item. Witnesses pointed out that it enforces the under-utilization of experienced older people and also encourages retirees to adopt artificial work and pay practices. Under this proposal, the limitation as it applies to full-term retirees, would be phased out over a 3-year period, by increasing the annual exempt amount of earnings to \$5,000 for 1978 and to \$7,500 for 1979, and by removing it entirely for 1980 and thereafter.

2. Freeze the minimum primary benefit at its expected June, 1978 level of about \$120 per month, but at the same time increase, now and in the future, the special minimum benefit.

Freezing the minimum primary benefit follows a recommendation of the latest Advisory Council on Social Security, and is designed to lessen, and eventually eliminate, certain "windfalls" accruing to persons who work in covered employment for very short periods of time and thus acquire rights to the relatively large minimum, which has been weighted in favor of low-income workers.

In practice, a substantial number of Federal, state, and municipal government workers, outside the Social Security system, have either "moonlighted" or retired early from their regular jobs and worked under Social Security just long enough to obtain the minimum primary benefit.

Ironically, the minimum primary benefit was not established to help those short-term workers, but to assist other workers who had labored long under the system, at low wages. Recognizing that the minimum primary benefit was not serving its basic purpose, the Congress in 1972 added a "special minimum benefit" to better take care of the workers with many years of covered service at relatively low wages.

In so doing, the Congress did not change the minimum primary benefit, which continues to be of greatest value to those who need it least. This proposal would correct that anomaly by freezing the minimum primary benefit while improving the special minimum benefit.

The special minimum is now \$180 per month for workers with at least 30 years of coverage. When the \$180 figure was adopted in the 1973 Social Security Amendments (effective for March 1974), it was not made subject to the automatic adjustments for changes in prices; if it had been, it would now be \$219.

Under this proposal, the special minimum would be increased to \$219 in January 1978 and would be subject to automatic adjustment thereafter (as are all other benefits).

(These changes also parallel provisions of the Committee bill.)

3. Provide that disability and survivorship benefits would be based on a primary benefit not in excess of the maximum primary benefit for a worker reaching minimal retirement age of 62 in the year of death or disability.

Under current law, benefits to younger beneficiaries often are considerably larger than those awarded to older disabled persons or retirees with much longer earning records (and therefore with greater contribution payments). This disparity in benefit levels, which has long been considered inequitable, would end with this proposal.

BARBER B. CONABLE, Jr.

JOHN J. DUNCAN.

BILL ARCHER.

GUY VANDER JAGT.

WILLIAM A. STEIGER.

BILL FRENZEL.

JAMES G. MARTIN.

L. A. BAFALIS.

WILLIAM M. KETCHUM.

RICHARD T. SCHULZE.

BILL GRADISON, Jr.

XI. ADDITIONAL MINORITY VIEWS OF HON. WILLIAM M. KETCHUM

The restoration of our social security system to financial stability is of major consequence not only to individual participants in the program but also to the citizenry as a whole. It represents society's back-up system to ease the hardships caused by an abrupt cessation of earned income. While the Ways and Means Committee's recommendations, as contained in H.R. 9346, parallel my views in several areas, the bill fails to put the social security system on a sound financial footing for the next 75 years.

The Committee bill would increase sharply the wage base on which employers and employees pay taxes. For instance, an individual earning \$25,000/year would contribute \$1,203.95 in 1978, \$1,612.50 in 1981, and \$1,687.50 in 1985, and an individual earning \$10,000/year would contribute \$605 in 1978, \$645 in 1981, and \$675 in 1985. I strongly cautioned against these proposed sudden and large increases in the wage base beyond what is presently scheduled. While almost everyone agrees that there should be some rise in the wage base, current law already provides for an annual inflation adjustment which is projected to increase the wage base sufficiently from \$16,500 to \$17,700 in 1978, and by increments of \$1,500 each year after that. In the long run, increasing the wage base with respect to employees and the self-employed does *not* provide any significant revenues for the system because the additional taxes collected are very closely offset by the additional benefits created.

In addition, the Committee bill would impose an unnecessary, harsh increase in the tax rate over and above the scheduled rise, too soon in the wake of high rates of inflation and unemployment. Furthermore, H.R. 9346 will leave us with a minimum deficit of *\$800 billion over the next 75 years*.

The Committee did have alternatives which it could have taken and chose not to. A number of my colleagues and I advised that the bulk of new funding for the social security system should come from the existing payroll tax method. Most of the burdensome taxes could have been eliminated by a consolidation of the Old-Age and Survivors Insurance (OASI) and Disability Insurance (DI) and the Hospital Insurance (HI) trust funds to insure the financial viability of all three trust funds over the next few years. The adoption of our alternative plan would virtually eliminate the short-run deficit, thus obviating the need for such steep wage base and tax rate increases. Small tax rate and wage base increases would then be sufficient to eliminate a good portion of the deficit.

Although the Committee bill does address a number of long-standing inequities, the long and short term financing components of the bill will severely impact the working populace and further depress

the economy without insuring a financially sound social security trust fund. Those of us who believe that our social security system should be restored to financial stability on a long-range basis without 1) adding heavily to tax burdens in the future; or 2) requiring any tax increases over the next several years, in light of an uncertain economy and current payroll levies on both employers and employees, will make every effort to have our alternative proposals adopted in lieu of the committee bill when social security reform legislation comes before the House floor.

BILL KETCHUM.



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